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APPENDIX B

MEMORANDUM OF AGREEMENT

BETWEEN THE GENERAL SERVICES ADMINISTRATION (GSA), THE BUREAU OF LAND MANAGEMENT (BLM), THE COUNTY OF FAIRFAX, VIRGINIA (THE COUNTY), THE FAIRFAX COUNTY PARK AUTHORITY (FCPA), THE FAIRFAX COUNTY PUBLIC SCHOOLS (FCPS), THE FEDERATION OF LORTON COMMUNITIES (FOLC), THE LORTON HERITAGE SOCIETY (LHS), THE NORTHERN VIRGINIA REGIONAL PARK AUTHORITY (NVRPA), THE VIRGINIA DEPARTMENT OF HISTORIC RESOURCES (VDHR), AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION (THE COUNCIL).

PURSUANT TO 36 CFR SECTION 800.6 REGARDING THE TRANSFER OF THE LORTON CORRECTIONAL COMPLEX OUT OF FEDERAL OWNERSHIP

WHEREAS, the General Services Administration (GSA) proposes the transfer of the Lorton Correctional Complex, a property of approximately 2,700 acres, out of Federal ownership; and

WHEREAS, the General Services Administration plans to transfer portions of the Lorton Correctional Complex to the following parties: the County of Fairfax, Virginia, the Fairfax County Park Authority, the Fairfax County Public Schools, the Northern Virginia Regional Park Authority, and the Bureau of Land Management (BLM), and

WHEREAS, BLM may exchange the portion called the Lorton Exchange Tract (in excess of 200 acres north of Silverbrook Road identified in the Fairfax County Reuse Plan, dated July 26, 1999 as land available for residential development in Land Units 1 and 2) for Meadowood Farm (in excess of 800 acres) on Mason Neck.

WHEREAS, the BLM has conducted Phase IA and B studies on the Lorton Exchange Tract and determined that the exchange may have an adverse effect on the following potentially-eligible archaeological sites: 44 FX 2485 and 44 FX 2487; and

WHEREAS, the BLM has completed Phase IA studies for Meadowood Farm and will conduct additional studies needed to comply with Section 106 of the National Historic Preservation Act after the BLM has acquired the property and identified the proposed undertakings associated with management of the farm, and these compliance activities will be covered under separate Memorandum of Agreement documents; and

WHEREAS, GSA has determined that future development may have an adverse effect on yet unidentified archaeological resources in areas that have a high potential for disturbance and have a moderate or high sensitivity for the presence of archaeological sites (see Attachment C); and

WHEREAS, consultation by GSA with VDHR has resulted in the determination that the Lorton Correctional Complex contains a National Register-eligible Historic District of approximately 552 acres with 136 contributing resources and 106 non-contributing resources (hereinafter "Eligible District"); and

WHEREAS, a specific delineation of the boundaries of the Area of Potential Effect to historic structures, the Eligible District and the contributing resources within has been made in the January, 2000 *Final Historic Structures Determination of Eligibility Report*, prepared by GSA and concurred with by the Virginia Department of Historic Resources. (Report located in the files of VDHR, site number 029-947)

WHEREAS, GSA has determined that the property transfer will have an adverse effect upon the Eligible District, has consulted with the Virginia State Historic Preservation Officer (VDHR), and the Advisory Council on Historic Preservation (the Council) pursuant to 36 CFR Part 800, regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 470f), and has entered into this MOA in order to alleviate this adverse effect; and

WHEREAS, GSA and VDHR have also invited the Bureau of Land Management (BLM), the County of Fairfax Virginia, the Fairfax County Park Authority, the Fairfax County Public Schools, the Federation of Lorton Communities, the Lorton Heritage Society, and the Northern Virginia Regional Park Authority to participate in the consultation and to concur in this Memorandum of Agreement.

NOW THEREFORE, if GSA decides to proceed with the property transfer in a manner consistent with the terms that have been the subject of consultation to date, upon the execution of this MOA GSA and the entities to whom GSA transfers the property in whole or in part shall ensure that the following stipulations are carried out.

Stipulations

GENERAL STIPULATIONS

- 1) **Enforcement of Compliance with the Stipulations of this MOA:** All parties to this agreement who accept title from GSA to property which is the subject of this MOA agree to enforce the terms of this MOA as a condition of the transfer.
- 2) **Archival documentation:** GSA shall turn over survey materials from GSA's Determination of Eligibility Report, and other related archival material housed with the D.C. Department of Corrections or District of Columbia Archives that enters into GSA custody and control, to the Virginia Room of the Fairfax Public Library, and/or another repository located within Fairfax City or County designated by the Fairfax Public Library. The materials include, at a minimum, any plans and drawings, 35mm photographic negatives, and a complete set of 3 ½" x 5" prints, along with a written photo log and photographic contact sheets.
- 3) **Creation of museum/display:** One or more building(s)-- to be identified by the County after consultation with LHS and FCPA—will be used for the creation of a permanent display or museum dedicated to the history of the Prison, the D.C. Department of Corrections, and/or the surrounding community. The museum may be operated by the FCPA or the County or LHS. However, there is no requirement to operate the museum unless funding is available. In the event that an organization such as the American Correctional Association (ACA) establishes a museum at Lorton, this requirement may be assigned to that organization as part of

the conditions upon their use of the Lorton property. This would have to be coordinated with that organization. Coordination with the organization establishing a museum would be the responsibility of the County or the FCPA, whichever organization is in possession of the structure(s) proposed for museum use. If both possess the structure(s), coordination will be required with both.

- 4) **Stabilizing Contributing Resources:** While GSA has custody and control of the Lorton property, GSA will follow the procedures outlined in Preservation Brief 31, *Mothballing Historic Buildings*, to secure and stabilize all contributing resources within the Eligible District until the property is transferred out of Federal ownership.

Resources that are unlikely to be adaptively re-used may be excluded from this requirement by mutual agreement of the County, FCPA, LHS, GSA, and VDHR.

NEW CONSTRUCTION, ALTERATION, DEMOLITION, AND ADAPTIVE USE OF STRUCTURES WITHIN THE ELIGIBLE DISTRICT

- 5) **Rehabilitations according to Secretary of the Interior's Standards:** All exterior rehabilitations or exterior alterations of contributing structures within the Eligible District shall be performed in keeping with the *Secretary of the Interior's Standards for Rehabilitating Historic Buildings*, U.S. Department of the Interior, National Park Service, 1995. Ordinary and necessary repairs and routine maintenance that do not materially affect the external visual appearance of historic features shall not be considered alterations under this stipulation.
- 6) **Designation as a historic overlay district and review of undertakings within the Eligible District:**

If the Eligible District is a locally-designated historic overlay district, all parties to this MOA agree that any undertaking within the Eligible District shall be reviewed according to the following process:

An "undertaking" shall be defined for the purposes of this MOA as a project, activity, or program which alters structures or grounds within the Eligible District funded in whole or in part under the direct or indirect jurisdiction of a signatory to this MOA, including those actions carried out by or on behalf of a signatory to this MOA; those carried out with the financial assistance of a signatory to this MOA; and those requiring a permit, license or approval of a signatory to this MOA. The following shall not be considered an "undertaking:" Alterations to interiors of contributing structures, unless the specific interior feature is listed in Attachment A; demolition of non-contributing structures within the Eligible District, and alterations to the interior of non-contributing structures within the Eligible District.

Examples of an undertaking include, but are not limited to: alteration of the exterior of a contributing structure, demolition of a contributing structure, new construction within the Eligible District, re-grading or landscaping of 2,500 square feet or more, and road construction of roads that have not been identified in the approved reuse plan.

Should the Fairfax County Board of Supervisors designate the Eligible District as a historic overlay district, the laws and regulations of Fairfax County shall apply to the review of undertakings within the Eligible District. (Fairfax County Zoning Ordinance, Overlay and Commercial Revitalization District Regulations, Part 2, 7-200, et seq., Historic Overlay Districts), with the following additions:

- a) Undertakings that may affect structures with contributing interior features, as identified by Attachment A, shall also be subject to Fairfax County Architectural Review Board (ARB) review. (Note: The interiors of the buildings of the Central and Maximum Security facilities will be surveyed by GSA for potential historic significance following the release of care & custody of those facilities to GSA by the D.C. Department of Corrections.)
- b) The party proposing the undertaking shall submit plans, photographs and other pertinent documentation to the ARB. The documentation submitted shall meet or exceed the minimum standards required by the ARB for review of a project within a locally-designated Fairfax County historic overlay district. Copies of the documentation shall be simultaneously forwarded by the ARB to the LHS and VDHR. LHS and VDHR shall have thirty (30) days prior to the meeting of the ARB to provide comment in writing on the proposed undertaking to the ARB. Upon expiration of the thirty (30) day period, or receipt of comments from both VDHR and LHS, the undertaking may be placed on the agenda of the ARB for review according to the procedures and regulations of the ARB.
- c) Should changes be made to the proposed undertaking as a result of the meeting and decisions of the ARB, the record of the changes and the ARB meeting at which the decision was made shall be forwarded to both VDHR and the LHS.
- d) Any signatory to this MOA shall have the same rights granted to persons aggrieved by any decision of the ARB in 7-204.9 of the Fairfax County Zoning Ordinance, except as limited by Administrative Condition B5, to wit:

7-204.9: "Any person aggrieved by any decision of the ARB may appeal such decision to the Board of Supervisors, provided such appeal, which specifies the grounds for appeal, is filed in writing with the Clerk to the Board of Supervisors within thirty (30) days of the ARB's decision."

Any signatory to this MOA shall also have the right, if aggrieved by the decision of the Board of Supervisors, to appeal such decision to the Circuit Court of Fairfax County as outlined in 7-204.11 of the Fairfax County Zoning Ordinance.

The procedure described under this stipulation shall take effect upon transfer of the Eligible District out of Federal ownership. Should a portion of the Eligible District be transferred out of Federal ownership while the Federal government retains ownership of the remainder of the Eligible District, the requirements of this stipulation shall apply to only those portions that have been transferred out of Federal ownership.

7) Review of undertakings within the Eligible District if the Eligible District is not a Fairfax County historic overlay district

If the Eligible District is designated as a local historic overlay district, all parties to this MOA agree that any undertaking within the Eligible District shall be reviewed according to the following process:

- a) For the purposes of this MOA, the ARB shall have those powers and responsibilities granted to it over the Eligible District that it has over a locally-designated Fairfax County historic overlay district, as defined in the Fairfax County Zoning Ordinance, Overlay and Commercial Revitalization District Regulations, Part 2, 7-200, et seq., Historic Overlay Districts. Undertakings that may affect structures with contributing interior features, as identified by Attachment A, shall also be subject to ARB review.
- b) The party proposing the undertaking shall submit plans, photographs and other pertinent documentation to the ARB. The documentation submitted shall meet or exceed the minimum standards required by the ARB for review of a project within a locally-designated Fairfax County historic overlay district. Copies of the documentation shall be simultaneously forwarded by the ARB to the LHS and VDHR.
- c) LHS and VDHR shall then have thirty (30) days to provide comment in writing on the proposed undertaking to the ARB. Upon expiration of the thirty (30) day period, or receipt of comments from both VDHR and LHS, the undertaking may be placed on the agenda of the ARB for review according to the procedures and regulations of the ARB.
- d) Should changes be made to the proposed undertaking as a result of the meeting and decisions of the ARB, the record of the changes and the ARB meeting at which the decision was made shall be forwarded to both VDHR and the LHS.
- e) If the LHS or VDHR should object to the decision of the ARB, the LHS or VDHR or both may formally protest the decision in writing to the Clerk to the Fairfax County Board of Supervisors within fifteen (15) calendar days of the decision. Upon expiration of this fifteen (15) day period, if no written comment from VDHR or LHS has been recorded formally objecting to the ARB's decision, the undertaking may be approved or implemented by the Fairfax County Board of Supervisors with no further opportunity for objection under the procedures of this MOA granted to either the VDHR or LHS.
- f) Upon receipt of any such objection from VDHR or LHS, a thirty (30) day moratorium period shall be placed on the execution of the undertaking. During this thirty (30) day period, a historic preservation issues meeting or conference call shall be held with representatives of the objecting party (VDHR, LHS or both), the party proposing the undertaking, Fairfax County, and the Council. Other parties may attend this meeting and provide comment during a designated comment period within the meeting. Failure of the objecting party to make themselves available for such a meeting within the thirty (30) day period shall render their objection void at the expiration of the thirty (30) days. An extension of fifteen (15) days may be requested in writing to the Clerk of the Fairfax County Board of Supervisors prior to the expiration of the thirty (30) day period by the objecting party. If representatives of the party proposing the undertaking fail to make themselves available during this thirty (30) day period, the moratorium period shall be extended until the meeting is held.
- g) During this meeting, the parties shall negotiate regarding specific objections to the undertaking. The Council shall act as mediator of the process, suggesting preservation treatments and processes that may serve to provide a compromise between the party proposing the undertaking and the objecting party (ies). Within fifteen (15) calendar days of the historic preservation issues meeting, the following shall be forwarded to the Fairfax County Board of Supervisors:
 1. If the proposed undertaking is a demolition, the results of the adaptive use study undertaken as per stipulation 8.
 2. The written objection of the objecting parties.

3. Minutes from the meeting between the objecting party (ies) and the party proposing the undertaking that have been prepared by the Council.
 4. A written response from the party proposing the undertaking to the objecting party.
 5. The comments of the Council.
- h) The Fairfax County Board of Supervisors shall then act to approve or disapprove the decision of the ARB according to the procedures stated in the laws and regulations pertaining to a Fairfax County historic overlay district.
- i) The procedure described under this stipulation shall take effect upon transfer of the Eligible District out of Federal ownership. Should a portion of the Eligible District be transferred out of Federal ownership while the Federal government retains ownership of the remainder of the Eligible District, the requirements of this stipulation shall apply to only those portions that have been transferred out of Federal ownership.
- 8) **Adaptive use studies of contributing resources:** If any contributing resources are proposed for demolition within the Eligible District, other than those listed in Attachment B, such resources shall be examined for the feasibility of adaptive use. The performance of such studies shall be the responsibility of the party proposing the demolition.

There is no requirement to perform feasibility studies for the contributing resources listed in Attachment B, if proposed for demolition.

- a) Within 6 months of the date of the execution of the agreement, the County shall have prepared a proposed scope and format for the feasibility study. The proposed scope and format for the study shall be circulated to VDHR, the LHS, and the Council. LHS and VDHR shall then have thirty (30) days to object to the scope or format for the study. Should VDHR or the LHS object to the scope or format for the study, they may register in writing a formal objection to the Clerk of the Fairfax County Board of Supervisors. Should neither VDHR nor LHS object to the proposed scope or format within the thirty (30) day period, the Fairfax County Board of Supervisors shall act to approve or disapprove the scope and format for the study.
- b) Upon receipt of any such objection from VDHR or LHS, a meeting or conference call shall be held with representatives of the objecting party (VDHR, LHS or both), the Fairfax County Board of Supervisors, and the Council. Other parties may attend this meeting and provide comment during a designated comment period within the meeting. Failure of the objecting party to make themselves available for such a meeting within a thirty (30) day period shall render their objection void at the expiration of the thirty (30) days. An extension of fifteen (15) days may be requested in writing to the Clerk of the Fairfax County Board of Supervisors prior to the expiration of the thirty (30) day period by the objecting party. If representatives of the party proposing the undertaking fail to make themselves available during this thirty (30) day period, the moratorium period shall be extended until the meeting is held.
- c) Within fifteen (15) calendar days of the meeting, the following shall be forwarded to the Fairfax County Board of Supervisors:
1. The written objection of the objecting parties.
 2. Minutes from the meeting, that have been prepared by the Council, between the objecting party (ies) and the party proposing the scope and format of the feasibility study.

3. The comments of the Council.
- d) The Fairfax County Board of Supervisors shall then act to approve or disapprove the proposed scope and format for the feasibility studies. Once the scope and format have been approved by the Fairfax County Board of Supervisors, it shall be used for all future studies. Any changes to the scope or format shall require a new circulation of the proposed scope or format to LHS and VDHR, with an opportunity for objection granted to LHS and VDHR and approval of the new scope or format by the Fairfax County Board of Supervisors.
 - e) The feasibility study shall be included with the documentation provided to the Fairfax County ARB under stipulation 6 or 7, whichever is applicable.
 - f) If it is found by the party proposing demolition that it is not feasible to reuse the contributing buildings, and this finding is concurred with by the Fairfax County Board of Supervisors, then demolition may proceed following the completion of the photographic documentation required in stipulation number 9. If the party proposing demolition states that it is not feasible to reuse the buildings, but the Fairfax County Board of Supervisors does not agree, the Fairfax County Board of Supervisors shall be empowered to place a moratorium on demolition for a period of a minimum of three months, to require that the property be offered on the open market at fair market value to persons or entities who are willing to adaptively reuse the contributing resource. The precise length of the moratorium period will be determined according to the Fairfax County Zoning Ordinance, Overlay and Commercial Revitalization District Regulations, Historic Overlay Districts, 7-204.12(C). If the contributing resource is the property of Fairfax County, the moratorium period shall be for a minimum of six months. If a suitable purchaser cannot be found within the moratorium period, the party proposing the demolition may proceed to demolish the contributing resource after complying with stipulation number 9.
 - g) The procedure described under this stipulation shall take effect upon transfer of the Eligible District out of Federal ownership. Should a portion of the Eligible District be transferred out of Federal ownership while the Federal government retains ownership of the remainder of the Eligible District, the requirements of this stipulation shall apply to only those portions that have been transferred out of Federal ownership.
- 9) **Photographic documentation:** Any contributing buildings that are to be demolished shall be photographed with a large format (4" x 5" minimum negative) camera using black & white film prior to their demolition. Photographic recordation shall be done to the standards of the Historic American Buildings Survey (HABS). The number and angle of views shall be coordinated with FCPA prior to the taking of the photographs and completed photos shall be approved by FCPA prior to demolition. Such photographs shall be submitted to the Virginia Room of the Fairfax County Public Library, the District of Columbia Archives, and VDHR. The negatives shall be submitted to VDHR. The photographic documentation shall be the responsibility of the party proposing the demolition.
- 10) **Development of redevelopment or adaptive use strategies:** All parties to this MOA agree that they shall invite LHS, FOLC, VDHR, the ARB, the Fairfax County Economic Development Authority (EDA), Fairfax County Redevelopment and Housing Authority, and the Fairfax County History Commission to participate in the development of any redevelopment or adaptive use strategies for private development within the Eligible District. Such participation shall include, at a minimum, a period of thirty (30) calendar days prior to the release of any Requests

for Proposal (RFPs) related to redevelopment or adaptive use for the LHS, ARB and VDHR to comment on the proposed RFP.

ARCHAEOLOGICAL STUDIES

The prehistoric and historic archaeological resources shall be identified and evaluated and treatment plans shall be developed for National Register-eligible properties in accordance with the procedures outlined below before approval of any ground-disturbing activities at the Lorton Correctional Complex. The specific procedures are outlined below.

11) **Phase I Studies (Identification):**

- a) GSA has conducted a Phase IA study of the entire Lorton Correctional Complex property. The BLM has completed a Phase IB of the Lorton Exchange Tract.
- b) GSA shall perform Phase IB testing at the Lorton Correctional Complex property, excluding the Lorton Exchange Tract. The testing shall encompass those areas that have a high potential for disturbance from implementation of the Fairfax County Land Use Plan and have a moderate or high sensitivity for the presence of archaeological resources. This totals approximately 224 acres, and is delineated in Attachment C to this MOA. GSA shall submit a report meeting the federal standards entitled Archaeology and Historic Preservation: Secretary of the Interior's Standards and Guidelines (48 FR 44716-44742, September 29, 1983), VDHR's Guidelines for Preparing Identification and Evaluation Reports for Submission Pursuant to Sections 106 and 110, National Historic Preservation Act, Environmental Impact Reports of State Agencies, Virginia Appropriations Act, 1992 Session Amendments (June 1992) to VDHR for review and comment. If no comments are received within 30 days, GSA can assume concurrence with the recommendations on eligibility made in the report.
- c) If, in the future, ground disturbing activities are proposed by the future owners of the Lorton property in areas of moderate or high sensitivity that have yet to undergo Phase IB testing (approximately 436 acres), the party proposing the ground-disturbing activity shall perform Phase IB field testing for archaeological resources and shall consult with VDHR and the County on the need for Phase II testing. If Phase II testing is determined to be required by the County in consultation with VDHR, then the party shall perform the Phase II testing and any required Phase III Treatment.
- d) All field testing shall be performed according to the published standards of VDHR for archaeological investigations within the Commonwealth of Virginia. To wit: Archaeology and Historic Preservation: Secretary of the Interior's Standards and Guidelines (48 FR 44716-44742, September 29, 1983), VDHR's Guidelines for Preparing Identification and Evaluation Reports for Submission Pursuant to Sections 106 and 110, National Historic Preservation Act, Environmental Impact Reports of State Agencies, Virginia Appropriations Act, 1992 Session Amendments (June 1992).

12) **Phase II studies (Evaluation):**

Avoidance of potentially eligible archaeological sites is considered by VDHR to be the preferred treatment of identified sites. Avoidance of archaeological sites would obviate the need for Phase II investigations, reducing the cost of the undertaking and protecting the site.

- a) In areas where GSA conducts Phase IB testing, GSA in consultation with the VDHR and the County of Fairfax will identify the potentially-eligible archaeological resources and determine the need for Phase II-level studies.
- b) The owner of a property containing archaeological sites shall conduct Phase II archaeological studies prior to undertaking ground-disturbing activities that may adversely affect archaeological sites 44 FX 2485, 44 FX 2487, or any sites identified as per stipulation 11.
- c) Phase II-level studies shall be done in accordance with “Archeology and Historic Preservation: Secretary of the Interior’s Standards and Guidelines” and the “Virginia Department of Historic Resources Guidelines for Archaeological Investigations.”
- d) Based on the results of the Phase II studies, the County of Fairfax shall determine, in consultation with the VDHR, if the sites meet the National Register criteria for eligibility (36 CFR Part 60.4). If the VDHR does not object to the County’s recommendation on eligibility within thirty (30) days of receiving the recommendation and supporting documentation, then the County will assume concurrence. If a site is not eligible for listing in the National Register, then the proposed activities may proceed.

13) Phase III (Treatment of Archaeological Resources):

- a) If an archaeological site is determined to be eligible for listing in the National Register, then a treatment plan shall be prepared by the owner of the potentially impacted site in consultation with the County and VDHR. The preferred treatments are avoidance, preservation in situ, or incorporation into protected areas. Avoidance, preservation in situ, and incorporation into protected areas shall all be explored before data recovery is selected as a treatment option. If a preferred treatment is not implemented, then the treatment plan will involve data recovery and, if appropriate, curation of artifacts and public interpretation.
- b) The County shall submit the treatment plan to the VDHR for review and comment prior to its implementation. The VDHR will have thirty (30) days to review the plan and comment. Any comments received within thirty (30) days of VDHR’s receipt of the plan shall be addressed in the final treatment plan. If the VDHR does not comment within thirty (30) days, then the County will assume concurrence and proceed with implementing the plan.

14) Dispute Resolution for Archaeological Resources:

- a) If the County of Fairfax and the VDHR disagree on the National Register eligibility of a site, then VDHR will refer the eligibility issue to the Council and the Council will obtain an opinion from the Keeper of the National Register.
- b) If the County and VDHR disagree regarding the impacts of the project or the appropriate treatment plan, then VDHR will obtain the comments of the Council. The Council will provide comments within thirty (30) days of receiving the request for comment and the supporting documentation.
- c) If after receiving the comments of the Council or the Keeper, the County and VDHR still cannot agree on an issue of National Register eligibility, anticipated effects on eligible properties, or treatment, then the County, in cooperation with the VDHR, will submit the issue to the Board of Supervisors for resolution.

15) **Land Title Transfers:**

GSA and BLM, if BLM ultimately consummates the exchange and transfers title to the Lorton Exchange Tract, shall in any deed conveying any of the Lorton Correctional Complex property place a covenant on the property which requires compliance with the provisions of this MOA and specifies that such covenant shall run with the land. The County and GSA /BLM shall have the responsibility for enforcing the provisions of this MOA.

Administrative Conditions

A. Amendments

Any party to this MOA may propose to GSA that the MOA be amended, whereupon GSA shall consult with the other parties to this MOA to consider such an amendment in accordance with 36 CFR Part 800.6.

B. Resolving Objections

1. Should any party to this MOA object in writing to GSA regarding any action carried out or proposed with respect to the implementation of this MOA, GSA shall consult with the objecting party to resolve the objection. If after initiating such consultation GSA determines that the objection cannot be resolved through consultation, GSA shall forward all documentation relevant to the objection to the Council including GSA's proposed response to the objection. Within thirty (30) days after receipt of all pertinent documentation, the Council shall exercise one of the following options:
 - a) Advise GSA that the Council concurs in GSA's proposed response to the objection, whereupon GSA shall respond to the objection accordingly;
 - b) Provide GSA with recommendations, which GSA shall take into account in reaching a final decision regarding its response to the objection; or
 - c) Notify GSA that the objection will be referred for comment, and proceed to refer the objection and comment.
2. Should the Council not exercise one of the above options within thirty (30) days after receipt of all pertinent documentation, GSA may assume the Council's concurrence in its proposed response to the objection.
3. GSA shall take into account any Council recommendation or comment provided in accordance with this stipulation with reference only to the subject of the objection; GSA's responsibility to carry out all actions under this MOA that are not the subjects of the objection shall remain unchanged.
4. At any time during implementation of the measures stipulated in this MOA, should an objection pertaining to any such measure or its manner of implementation be raised by a member of the public, GSA shall notify the parties to this MOA and take the objection into account, consulting with the objector and, should the objector so request, with any of the parties to this MOA to resolve the objection.

5. Nothing in this agreement shall prevent a party to this agreement from seeking redress in a court of law to enforce the terms of this agreement, except in the case where any party to this Memorandum of Agreement is given the opportunity to raise objections and does not raise any objections in a timely manner. Such party shall not be permitted to seek redress in a court of law to enforce the terms of this Memorandum of Agreement with respect to the matter to which it raised no timely objections. If a court of law should find that the process outlined in either stipulation 6 or 7, whichever is applicable, was not followed, the party proposing the undertaking agrees to an immediate moratorium on the undertaking that shall continue until the process is completed.

C. Review of Implementation

If the stipulations have not been implemented within two years after execution of this MOA, the parties to this agreement shall review the MOA to determine whether revisions are needed. If revisions are needed, the parties to this MOA shall consult in accordance with 36 CFR Part 800.6 to make such revisions.

D. Termination

1. If the BLM discontinues its role in the proposed exchange or if the exchange proposal is suspended, then the BLM will cease to be a party to this MOA as it relates to the Lorton Exchange Tract. If the BLM discontinues its role, then GSA shall assume the BLM's responsibilities as delineated in this MOA.
2. If GSA determines that it cannot implement the terms of this MOA, or if the Council or the VDHR determines that the MOA is not being properly implemented, GSA or the Council or the VDHR may propose to the other parties to this MOA that it be terminated.
3. The party proposing to terminate this MOA shall so notify all parties to this MOA, explaining the reasons for termination and affording them at least thirty (30) days to consult and seek alternatives to termination. The parties shall then consult.
4. Should such consultation fail, GSA or the Council or VDHR may terminate the MOA by so notifying all parties.
5. Should this MOA be terminated, GSA shall either:
 - a) Consult in accordance with 36 CFR Part 800.6 to develop a new MOA; or
 - b) Request the comments of the Council pursuant to 36 CFR Part 800.7.

Execution of this Memorandum of Agreement by GSA, the Council, and VDHR, and implementation of its terms, evidence that GSA has afforded the Council an opportunity to comment on the property transfer and its effects on historic properties, and that GSA has taken into account the effects of the undertaking on historic properties.

GENERAL SERVICES ADMINISTRATION

By: _____

Date: _____

Name

Name/Title (printed)

VIRGINIA DEPARTMENT OF HISTORIC RESOURCES

By: _____

Date: _____

Name

Name/Title (printed)

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: _____

Date: _____

Name

Name/Title (printed)

CONCUR:

BUREAU OF LAND MANAGEMENT

By: _____

Date: _____

Name

Name/Title (printed)

COUNTY OF FAIRFAX

By: _____

Date: _____
Name

Name/Title (printed)

FAIRFAX COUNTY PARK AUTHORITY

By: _____
Date: _____
Name

Name/Title (printed)

FAIRFAX COUNTY PUBLIC SCHOOLS

By: _____
Date: _____
Name

Name/Title (printed)

FEDERATION OF LORTON COMMUNITIES

By: _____
Date: _____
Name

Name/Title (printed)

LORTON HERITAGE SOCIETY

By: _____
Date: _____
Name

Name/Title (printed)

By: _____

Date: _____

Name

Name/Title (printed)

NORTHERN VIRGINIA REGIONAL PARK AUTHORITY

By: _____

Date: _____

Name

Name/Title (printed)

**Attachment A: Structures with contributing interior features,
Eligible District**

Occoquan Workhouse, Residences, Farm Buildings & Miscellaneous:

H-40: Intact original woodwork and interior doors.

H-41: Laurel Hill home, not comprehensively surveyed, but original features known to exist.

H-42: Intact original fireplace, front door, woodwork & interior doors.

H-43: Intact original fireplace, woodwork and interior doors.

H-49: Intact original fireplace, woodwork, and interior doors.

H-51: Intact original fireplace, woodwork and interior doors

H-53: Intact original fireplace, woodwork, built-in bookcases and interior doors.

H-63: Intact original fireplace, front door, woodwork and interior doors.

W-12: Gymnasium/Assembly Hall. The proscenium, stage, and undivided interior space.

W-22: Livestock Barn: Intact livestock stalls

Central Facility (Reformatory & Penitentiary)

There are no architecturally significant interior features in the open-plan Central Facility buildings that set them apart for special preservation. However, one of the dormitories, survey No. R-20, retains its open, visible timber framing which may remain behind the ceilings of the other dormitory structures. This framing system contributes visually to the historic character of the dormitories and should be considered for preservation in any re-use plan for these buildings.

Attachment B: Contributing structures that do not require Feasibility Studies for Adaptive Use, prior to demolition, Eligible District

(The structures identified as not requiring feasibility studies for adaptive reuse fall into one of two categories:

- 1) *Structures of a unique construction or unusual function that are unlikely to be adaptable.*
- 2) *Structures that are small and of a simple construction and floor plan--usually a single open space.)*

Additional contributing structures may be added to or removed from this list by the County. LHS and VDHR shall be given 30 days to review and comment on revisions to the list.

	Key Number/Name	Building Name
1	W-29	Former Heating Plant
2	W-30	Equipment Storage - Farm
3	W-37	Building "H", by former sewage tanks
4	W-66	Storage Shed (Farm)
5	W-68	Farm Barn
6	W-70	Greenhouse (Farm)
7	W-86	Building by former sewage tanks
8	W-98	Former Slaughterhouse Building
9	W-Conc. Pad Tank Cover	Underground water tank associated with former sewage tanks
10	W-Corn Crib	
11	W-Farm Shed #1	Apple Barn Storage Shed
12	W-Farm Shed #2	Smoke House
13	W-Feed Barn #1	
14	W-Feed Barn #2	
15	W-Garage/Storage	Former Poultry Incubator
16	W-Guard Shack #1	
17	W-Guard Shack #2	
18	W-Guard Shack #3	
19	W-Guard Shack #4	
20	W-Sewage Tank #1	
21	W-Sewage Tank #2	
22	W-Steam Tunnels	Underground utility tunnels
23	W-Storage Barn #1	
24	Former Sewage Plant Bldg. #01	
25	Former Sewage Plant Bldg. #02	
26	Former Sewage Plant Bldg. #03	
27	Former Sewage Plant Bldg. #04	
28	Stoney Lonesome	Cemetery
29	R-38	OFACM Shops
30	R-56	Tower # 3
31	R-61	Tower # 8
32	R-76	OFACM (Storage Shed)
33	R-85	OFACM (Paint Shop)

34	R-86	Security & Storage
35	Boxing Area	
36	Storage	Small shed directly south of R-30 (Steam Heating Plant)
37	R-Steam Tunnels	Underground utility tunnels

Attachment C (not included): Overlay Map dated June 9, 2000
Levels of Potential Land Disturbance and Archaeological Sensitivity.

APPENDIX D

BOARD MATTER November 21, 2005 LAUREL HILL

The Board of Supervisors has taken several steps in support of transforming Laurel Hill into a world class asset. This includes the Board's unanimous support in December 2004 of the recommendations by the Board-appointed task force for the Reformatory and Penitentiary area; the authorization of an Out-Of-Turn Plan Amendment to re-plan the prison site; the creation of the Laurel Hill Project Advisory Citizens Oversight Committee; and, the authorization of funding for a project manager and consulting services related to the Reformatory – Penitentiary re-use project. Last month, another milestone was achieved, when the Board voted to support the nomination of a 512-acre district at Laurel Hill to the National Register of Historic Places. An additional motion regarding the possible movement of transportation functions from Laurel Hill Elementary school was also passed by the Board at its last meeting.

I think it is important for the Board to make it clear that our endorsement of the National Register nomination did not add further restrictions to potential development partners in the Board's adaptive reuse plan.

It is also important for the Board to provide guidance regarding the drafting of the Out-Of-Turn Plan Amendment, the drafting of the Request For Proposal (RFP) for the adaptive re-use area, and the review of responses to the RFP. For example, as it was noted in response to questions by Board members, the National Historic Register nomination, which identifies 194 buildings, structures, sites and objects, is an honorary designation. The Board's Memorandum of Agreement (MOA) is the document agreed to by all parties as part of the transfer of Laurel Hill from the federal government to the County in 2002. The MOA identifies a process for review of re-use proposals which may include alteration or demolition some structures. According to an opinion by the County Attorney's Office, "The terms of the Memorandum apply only to the 136 contributing structures and 106 non-contributing structures referenced in the Memorandum..."

Therefore:

I move that the Board of Supervisors reiterates its support of the adaptive re-use recommendations adopted by the Board on December 6, 2004 for the Reformatory and Penitentiary area at Laurel Hill, as well as the 2002 Memorandum of Agreement. Further, the Board directs staff to use the recommendations adopted in those documents as guidance in drafting the Out-Of-Turn Plan Amendment and the Request For Proposal for the Reformatory and Penitentiary area. This guidance extends to staff and all review boards and committees for the review of responses to the Request For Proposal.

Buildings, structures, sites and objects that are not identified in the Memorandum of Agreement may be included in adaptive re-use proposals but are not subject to the terms of the MOA.

APPENDIX D:

COUNTY OF FAIRFAX COMMONWEALTH OF VIRGINIA

GENERAL CONDITIONS AND INSTRUCTIONS TO BIDDERS

(Vendor: The general rules and conditions which follow apply to all purchases and become a definite part of each formal solicitation and resulting contract award issued by the DEPARTMENT OF PURCHASING & SUPPLY MANAGEMENT, unless otherwise specified. Bidders or their authorized representatives are expected to inform themselves fully as to the conditions, requirements, and specifications before submitting bids; failure to do so will be at the bidder's own risk and relief cannot be secured on the plea of error.)

Subject to all State and local laws, policies, resolutions, and regulations and all accepted rules, regulations and limitations imposed by legislation of the Federal Government, bids on all solicitations issued by the DEPARTMENT OF PURCHASING & SUPPLY MANAGEMENT will bind bidders to applicable conditions and requirements herein set forth unless otherwise specified in the solicitation.

I. AUTHORITY -The Purchasing Agent has the sole responsibility and authority for negotiating, placing and when necessary modifying every solicitation, contract and purchase order (except for capital construction projects) issued by the County of Fairfax. In the discharge of these responsibilities, the Purchasing Agent may be assisted by assigned buyers. Unless specifically delegated by the County Purchasing Agent, no other County officer or employee is authorized to order supplies or services, enter into purchase negotiations or contracts, or in any way obligate the government of the County of Fairfax for an indebtedness. Any purchase ordered or contract made which is contrary to these provisions and authorities shall be of no effect and void and the County shall not be bound thereby.

2. DEFINITIONS-

AGENCY: Any Department, Agency, Authority, Commission, Board or other unit in the Administrative Service of the County.

BEST VALUE: As predetermined in the solicitation, means the overall combination of quality, price, and various elements of required services that in total are optimal relative to a public body's needs.

BID: The offer of a bidder to provide specific goods or services at specified prices and/or other conditions specified in the solicitation.

BIDDER/OFFEROR: Any individual, company, firm, corporation, partnership or other organization bidding on solicitations issued by the Purchasing Agent and offering to enter into contracts with the County. The term "bidder" will be used throughout this document and shall be construed to mean "offeror" where appropriate.

CONTRACTOR: Any individual, company, firm, corporation, partnership or other organization to whom an award is made by the County.

COUNTY: County of Fairfax.

GOODS: All material, equipment, supplies, printing, and automated data processing/information technology hardware and software.

INFORMALITY: A minor defect or variation of a bid or proposal from the exact requirements of the invitation to bid or the request for proposal which does not affect the price, quality, quantity or delivery schedule for the goods, services or construction being procured.

INVITATION FOR BID (IFB): A request which is made to prospective suppliers (bidders) for their quotation on goods or services desired by the County. The issuance of an IFB will contain or incorporate by reference the specifications and contractual terms and conditions applicable to the procurement.

OPEN MARKET PROCUREMENT (OMP): A method of competitive bidding for the purchase or lease of goods, non-professional services or for the purchase of insurance, construction, or construction management when the estimated cost thereof shall be less than \$50,000.-

PROFESSIONAL & CONSULTANT SERVICES: Any type of professional service which is either: 1) performed by an independent contractor within the practice of accounting, actuarial services, architecture, dentistry, land surveying, landscape architecture, law, medicine, optometry, pharmacy, or professional engineering (which shall be procured as set forth in the Code of Virginia §2.2-4301 in the definition of competitive negotiation at paragraph 3 (a), and in conformance with the Fairfax County Purchasing Resolution), or 2) any other type of similar contractual service (including consultants), required by the Fairfax County Government but not furnished by its own employees, which is in its nature so unique that it should be obtained by negotiation on the basis of demonstrated competence and qualification for the type of professional service required and at fair and reasonable compensation rather than by competitive sealed bidding.

PURCHASING AGENT: The Purchasing Agent employed by the Board of Supervisors of Fairfax County, Virginia.

REQUEST FOR PROPOSAL (RFP): A request for an offer from prospective offerors which will indicate the general terms which are

sought to be procured from the offeror. The RFP will specify the evaluation factors to be used and will contain or incorporate by reference other contractual terms and conditions applicable to the procurement.

RESPONSIBLE BIDDER/OFFEROR: An individual, company, firm, corporation, partnership or other organization having the capability in all respects to perform fully the contract requirements, and also having the moral and business integrity and reliability which will assure good faith performance, and having been prequalified, if required. (Reference paragraph 24, General Conditions and Instructions to Bidders).

RESPONSIVE BIDDER/OFFEROR: An individual, company, firm, corporation, partnership or other organization having submitted a bid which conforms in all material respects to the invitation for bid or request for proposal.

SERVICES: Any work performed by an independent contractor wherein the service rendered does not consist primarily of acquisition of equipment or materials, or the rental of equipment, materials and supplies.

SOLICITATION: The process of notifying prospective bidders that the County wishes to receive bids on a set of requirements to provide goods or services. The notification of County requirements may consist of public advertising (newspaper, County Web Site, or other electronic notification), the mailing of Notices of Solicitation, Invitation for Bid (IFB) or Request for Proposal (RFP), the public posting of notices, issuance of an Open Market Procurement (OMP), or telephone calls to prospective bidders.

STATE: Commonwealth of Virginia.

CONDITIONS OF BIDDING

3. BID FORMS-Unless otherwise specified in the solicitation, all bids shall be submitted on the forms provided, to include the bid Cover Sheet and Pricing Schedule(s), properly signed in ink in the proper spaces and submitted in a sealed envelope provided with the solicitation. The item pages of the Pricing Schedule which do not include any items for which a bid is required need not be included in the submission of a bid.

Should the bid prices and/or any other submissions differ on the copy of the submitted bid, the ORIGINAL copy shall prevail.

4. LATE BIDS & MODIFICATIONS OF BIDS-

- a. Any bid/modification received at the office designated in the solicitation after the exact time specified for receipt of the bid/modification is considered a late bid/modification. A late bid/modification will not be considered for award except under the following conditions only:
 1. It was sent by registered or certified mail not later than the fifth (5th) calendar date prior to the date specified for receipt of the bid/modification; or
 2. The bid/modification was sent by mail and it is determined by the County Purchasing Agent that the late receipt was due solely to mishandling by the County after receipt at the address specified in the solicitation.
- b. If the County declares administrative or liberal leave, scheduled bid openings or receipt of proposals will be extended to the next business day.
- c. The time of receipt of bids at the specified location is the time-date stamp of such location on the bid wrapper or other documentary evidence of receipt maintained by the specified location.
- d. A late hand-carried bid, or any other late bid not submitted by mail, shall not be considered for award.

5. WITHDRAWAL OF BIDS-

- a. A bidder for a public construction contract, other than a contract for construction or maintenance of public highways, may withdraw his or her bid from consideration if the price bid was substantially lower than the other bids due solely to a mistake therein, provided the bid was submitted in good faith, and the mistake was a clerical mistake as opposed to a judgment mistake, and was actually due to an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of a bid, which unintentional arithmetic error or unintentional omission can be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn. If a bid contains both clerical and judgment mistakes, a bidder may withdraw his bid from consideration if the price bid would have been substantially lower than the other bids due solely to the clerical mistake, that was an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of a bid which shall be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn. The bidder shall give notice in writing to the Purchasing Agent of his or her claim of right to withdraw his or her bid within two (2) business days after the conclusion of the bid opening procedure and shall submit original work papers with such notice.
- b. A bidder for a contract other than for public construction may request withdrawal of his or her bid under the following circumstances:
 1. Requests for withdrawal of bids prior to opening of such bids shall be transmitted to the County Purchasing Agent in writing.
 2. Requests for withdrawal of bids after opening of such bids but prior to award shall be transmitted to the County Purchasing Agent, in writing, accompanied by full documentation supporting the request. If the request is based on a claim of error, documentation must show the basis of the error. Such documentation may take the form of

supplier quotations, vendor work sheets, etc. If bid bonds were tendered with the bid, the County may exercise its right of collection.

- c. No bid may be withdrawn under this paragraph when the result would be the awarding of the contract on another bid of the same bidder or of another bidder in which the ownership of the withdrawing bidder is more than five percent.
- d. If a bid is withdrawn under the authority of this paragraph, the lowest remaining bid shall be deemed to be the low bid.
- e. No bidder who is permitted to withdraw a bid shall, for compensation, supply any material or labor to or perform any subcontract or other work agreement for the person or firm to whom the contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn bid was submitted.
- f. If the county denies the withdrawal of a bid under the provisions of this paragraph, it shall notify the bidder in writing stating the reasons for its decision and award the contract to such bidder at the bid price, provided such bidder is a responsible and responsive bidder.
- g. Work papers, documents, and materials submitted in support of a withdrawal of bids may be considered as trade secrets or proprietary information subject to the conditions of the Virginia Freedom of Information Act.

6. ERRORS IN BIDS-When an error is made in extending total prices, the unit bid price will govern. Erasures in bids must be initialed by the bidder. Carelessness in quoting prices, or in preparation of bid otherwise, will not relieve the bidder. Bidders are cautioned to recheck their bids for possible error. Errors discovered after public opening cannot be corrected and the bidder will be required to perform if his or her bid is accepted.

7. MAILING OF BIDS – All bids and proposals submitted in response to a Fairfax County solicitation shall be submitted either a) in the special mailing envelope provided by the Department of Purchasing and Supply Management or b) have the solicitation number, subject, and date/time of opening/closing clearly marked on the outside of any other wrapper used.

8. COMPLETENESS-To be responsive, a bid must include all information required by the solicitation.

9. ACCEPTANCE OF BIDS/BINDING 90 DAYS-Unless otherwise specified, all formal bids submitted shall be binding for ninety (90) calendar days following bid opening date, unless extended by mutual consent of all parties.

10. CONDITIONAL BIDS-Conditional bids are subject to rejection in whole or in part.

11. BIDS FOR ALL OR PART-Unless otherwise specified by the County Purchasing Agent or by the bidder, the Purchasing Agent reserves the right to make award on all items in the aggregate or on any of the items on an individual basis, whichever is in the best interest of the County. A bidder may restrict his or her bid to consideration in the aggregate by so stating but shall name a single unit price on each item bid. Any bid in which the bidder names a total price for all the articles without quoting a unit price for each and every separate item may not be considered for award.

12. AREA BIDS-For the purchase and delivery of certain goods and services the County may be divided into Areas (e.g., Areas I, II, III, and IV). When such goods and services are included in the Pricing Schedule, bidders may bid on all areas or an individual area. A map showing the areas of the County will be furnished with the solicitation when required.

13. TIME FOR RECEIVING BID-Bids received prior to the time of opening will be securely kept, unopened. The representative of the Purchasing Agent assigned to open them will decide when the specified time has arrived, and no bid received thereafter will be considered, except as provided in paragraph 4, General Conditions and Instructions to Bidders. No responsibility will attach to the Purchasing Agent or his or her representative for the premature opening of a bid not properly addressed and identified. Unless specifically authorized in the solicitation, telegraphic, electronic, or facsimile bids/modifications will not be considered.

14. BID OPENING-All bids received in response to an Invitation for Bid (IFB) will be opened at the date, time and place specified, read publicly, and made available for inspection as provided in paragraph 68, General Conditions and Instructions to Bidders. Tabulations of bids received are posted on the Department of Purchasing & Supply Management Bulletin Board as well as the County's web site: <http://www.fairfaxcounty.gov/dpsm/solic.htm>.

Proposals received in response to a Request for Proposal (RFP) will be made available as provided in paragraph 68, General Conditions and Instructions to Bidders.

15. OMISSIONS & DISCREPANCIES-Any items or parts of any equipment listed in this solicitation which are not fully described or are omitted from such specification, and which are clearly necessary for the completion of such equipment and its appurtenances, shall be considered a part of such equipment although not directly specified or called for in the specifications.

Should a bidder find discrepancies or ambiguities in, or omissions from, the solicitation, including the drawings and/or specifications, he or she shall notify the Purchasing Agent at least five (5) days prior to the date set for the opening of bids. If necessary, the Purchasing Agent will send a written addendum for clarification to all bidders no later than three (3) days before the date set for opening of bids. Notifications regarding specifications will not be considered if received within five days of the date set for opening of bids.

16. RESPONSE TO SOLICITATIONS-In the event a vendor cannot submit a bid on a solicitation, he or she is requested to return the solicitation cover sheet with an explanation as to why he or she is unable to bid on these requirements.

17. BIDDER INTERESTED IN MORE THAN ONE BID-If more than one bid is offered by any one party, either directly or by or in the name of his or her clerk, partner, or other persons, all such bids may be rejected. A party who has quoted prices on work, materials, or supplies to a bidder is not thereby disqualified from quoting prices to other bidders or firms submitting a bid directly for

the work, materials or supplies.

18. TAX EXEMPTION-The County is exempt from the payment of any federal excise or any Virginia sales tax. The price bid must be net, exclusive of taxes. However, when under established trade practice any federal excise tax is included in the list price, a bidder may quote the list price and shall show separately the amount of federal tax, either as a flat sum or as a percentage of the list price, which shall be deducted by the County. Fairfax County's Federal Excise Tax Exemption Number is 54-74-0127K. Contractors located outside the Commonwealth of Virginia are advised that when materials are picked up by the County at their place of business, they may charge and collect their own local/state sales tax. Materials used in the performance of construction contracts are subject to Virginia Sales/Use Tax as described in Section 630-10-27J of the Virginia Retail Sales and Use Tax Regulations.

19. PROHIBITION AGAINST UNIFORM PRICING-The County Purchasing Agent shall encourage open and competitive bidding by all possible means and shall endeavor to obtain the maximum degree of open competition on all purchase transactions using the competitive sealed bidding, competitive negotiation, or open market methods of procurement. In submitting a bid each bidder shall, by virtue of submitting a bid, guarantee that he or she has not been a party with other bidders to an agreement to bid a fixed or uniform price. Violation of this implied guarantee shall render void the bids of participating bidders. Any disclosure to or acquisition by a competitive bidder, in advance of the opening of the bids, of the terms or conditions of the bid submitted by another competitor may render the entire proceedings void and may require re-advertising for bids.

SPECIFICATIONS

20. QUESTIONS CONCERNING SPECIFICATIONS-Any information relative to interpretation of specifications and drawings shall be requested of the Purchasing Agent, in writing, in ample time before the opening of bids. No inquiries, if received by the Purchasing Agent within five (5) days of the date set for the opening of bids, will be given any consideration. Any material interpretation of a specification, as determined by the County Purchasing Agent, will be expressed in the form of an addendum to the specification which will be sent to all prospective bidders no later than three (3) days before the date set for receipt of bids. Oral answers will not be authoritative.

21. BRAND NAME OR EQUAL ITEMS-Unless otherwise provided in the invitation for bid, the name of a certain brand, make or manufacturer does not restrict bidders to the specific brand, make or manufacturer named; it conveys the general style, type, character, and quality of the article desired, and any article which the County in its sole discretion determines to be the equal of that specified, considering quality, workmanship, economy of operation, and suitability for the purpose intended, shall be accepted.

22. FORMAL SPECIFICATIONS-When a solicitation contains a specification which states no substitutes, no deviation therefrom will be permitted and the bidder will be required to furnish articles in conformity with that specification.

The bidder shall abide by and comply with the true intent of the specifications and not take advantage of any unintentional error or omission, but shall fully complete every part as the true intent and meaning of the specifications and drawings. Whenever the mention is made of any articles, material, or workmanship to be in accordance with laws, ordinances, building codes, underwriter's codes, A.S.T.M. regulations or similar expressions, the requirements of these laws, ordinances, etc., shall be construed as to the minimum requirements of these specifications.

23. FEDERAL SPECIFICATIONS-Any Federal Specifications referred to herein may be obtained from the GSA Federal Supply Service Bureau - Specification Section, 470 East L'Enfant Plaza, S.W., Suite #8100, Washington, D.C. 20407 (Voice: 1-202-619-8925, Fax: 1-202-619-8978).

AWARD

24. AWARD OR REJECTION OF BIDS-The Purchasing Agent shall award the contract to the lowest responsive and responsible bidder complying with all provisions of the IFB, provided the bid price is reasonable and it is in the best interest of the County to accept it. Awards made in response to a RFP will be made to the highest qualified offeror whose proposal is determined, in writing, to be the most advantageous to the County taking into consideration the evaluation factors set forth in the RFP. The Purchasing Agent reserves the right to award a contract by individual items, in the aggregate, or in combination thereof, or to reject any or all bids and to waive any informality in bids received whenever such rejection or waiver is in the best interest of the County. Award may be made to as many bidders as deemed necessary to fulfill the anticipated requirements of Fairfax County. The Purchasing Agent also reserves the right to reject the bid of a bidder deemed to be a non-responsible bidder.

In determining the responsibility of a bidder, the following criteria will be considered:

- a. The ability, capacity and skill of the bidder to perform the contract or provide the service required;
- b. Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference;
- c. The character, integrity, reputation, judgment, experience and efficiency of the bidder;
- d. The quality of performance of previous contracts or services;
- e. The previous and existing compliance by the bidder with laws and ordinances relating to the contract or services;
- f. The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service;
- g. The quality, availability and adaptability of the goods or services to the particular use required;
- h. The ability of the bidder to provide future maintenance and service for the use of the subject of the contract;

- i. The number and scope of the conditions attached to the bid;
- j. Whether the bidder is in arrears to the County on debt or contract or is a defaulter on surety to the County or whether the bidder's County taxes or assessments are delinquent; and
- k. Such other information as may be secured by the County Purchasing Agent having a bearing on the decision to award the contract. If an apparent low bidder is not awarded a contract for reasons of nonresponsibility, the County Purchasing Agent shall so notify that bidder and shall have recorded the reasons in the contract file.

25. NOTICE OF ACCEPTANCE/CONTRACT DOCUMENTS-A written award (or Acceptance Agreement) mailed (or otherwise furnished) to the successful bidder within the time for acceptance specified in the solicitation shall be deemed to result in a binding contract. The following documents which are included in the solicitation shall be incorporated by reference in the resulting contract and become a part of said contract:

- a. County of Fairfax Solicitation Form/Acceptance Agreement (Cover Sheet) and other documents which may be incorporated by reference, if applicable,
- b. General Conditions and Instructions to Bidders,
- c. Special Provisions and Specifications,
- d. Pricing Schedule,
- e. Any Addenda/Amendments/Memoranda of Negotiations

26. TIE-BIDS – If all bids are for the same total amount or unit price (including authorized discounts and delivery times), and if the public interest will not permit the delay of readvertisement for bids, the County Purchasing Agent is authorized to award the contract to the resident Fairfax County tie bidder whose firm has its principal place of business in the County, or if there be none, to the resident Virginia tie bidder, or if there be none, to one of the tie bidders by drawing lots in public; or the County Purchasing Agent may purchase the goods or services in the open market except that the price paid shall not exceed the lowest contract bid price submitted for the same goods or services. The decision of the County to make award to one or more such bidders shall be final.

27. PROMPT PAYMENT DISCOUNT-

- a. Unless otherwise specified in the solicitation, prompt payment discounts requiring payment in less than fifteen (15) days will not be considered in evaluating a bid for award. However, even though not considered in the evaluation, such discounts will be taken if payment is to be made within the discount period.
- b. In connection with any discount offered, time will be computed from the date of delivery of the supplies to the carrier when delivery, inspection and acceptance are at the point of origin; or, from date of delivery, inspection and acceptance at destination; or, from date correct invoice or voucher is received in the office specified by the County, if the latter is later than the date of acceptance. In the event the bidder does not indicate a prompt payment discount, it shall be construed to mean NET 30 days.

For the purpose of earning the discount, payment is deemed to be made as of the date of mailing of the County check or issuance of an Electronic Funds Transfer.

28. INSPECTION-ACCEPTANCE-For determining acceptance of supplies in accordance with the provisions of the prompt payment discount paragraph, inspection and acceptance shall be accomplished only after examination (including testing) of supplies and services to determine whether the supplies and services conform to the contract requirements. Acceptance shall occur only after receipt and inspection provided such inspection, as appropriate, is accomplished within a reasonable time.

29. DEFINITE BID QUANTITIES-Where definite quantities are specifically stated, acceptance will bind the County to order quantities specified and to pay for, at contract prices, all such supplies or services delivered that meet specifications and conditions of the contract. However, the County will not be required to accept delivery of any balances unordered, as of the contract expiration date, unless the Contractor furnished the Purchasing Agent with a statement of unordered balances not later than ten (10) days after the termination date of the contract.

30. REQUIREMENT BID QUANTITIES-On "Requirement" bids, acceptance will bind the County to pay for, at unit bid prices, only quantities ordered and delivered. Where the County specifies estimated quantities, the Contractor shall not be required to deliver more than ten (10) percent in excess of the estimated quantity of each item, unless otherwise agreed upon.

CONTRACT PROVISIONS

31. TERMINATION OF CONTRACTS-Contracts will remain in force for full periods specified and/or until all articles ordered before date of termination shall have been satisfactorily delivered and accepted and thereafter until all requirements and conditions shall have been met, unless:

- a. Terminated prior to expiration date by satisfactory deliveries of entire contract requirements, or upon termination by the County for Convenience or Cause.
- b. Extended upon written authorization of the Purchasing Agent and accepted by Contractor, to permit ordering of unordered balances or additional quantities at contract prices and in accordance with contract terms.

32. TERMINATION FOR CONVENIENCE-A contract may be terminated in whole or in part by the County in accordance with this

clause whenever the County Purchasing Agent shall determine that such a termination is in the best interest of the County. Any such termination shall be effected by delivery to the Contractor at least five (5) working days prior to the termination date of a Notice of Termination specifying the extent to which performance shall be terminated and the date upon which termination becomes effective. An equitable adjustment in the contract price shall be made for completed service, but no amount shall be allowed for anticipated profit on unperformed services.

33. TERMINATION OF CONTRACT FOR CAUSE-

- a. If, through any cause, the Contractor shall fail to fulfill in a timely and proper manner his or her obligations under this contract, or if the Contractor shall violate any of the covenants, agreements, or stipulations of this contract, the County shall thereupon have the right to terminate, specifying the effective date thereof, at least five (5) days before the effective date of such termination. In such event all finished or unfinished documents, data, studies, surveys, drawings, maps, models, and reports prepared by the Contractor under the contract shall, at the option of the County, become its property and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents.
- b. Notwithstanding the above, the Contractor shall not be relieved of liability to the County for damages sustained by the County by virtue of any breach of contract by the Contractor for the purpose of set off until such time as the exact amount of damages due to the County from the Contractor is determined.

34. CONTRACT ALTERATIONS-No alterations in the terms of a contract shall be valid or binding upon the County unless made in writing and signed by the Purchasing Agent or his or her authorized agent.

35. SUBLETTING OF CONTRACT OR ASSIGNMENT OF CONTRACT FUNDS-It is mutually understood and agreed that the Contractor shall not assign, transfer, convey, sublet or otherwise dispose of his or her contractual duties to any other person, firm or corporation, without the previous written consent of the Purchasing Agent. If the Contractor desires to assign his or her right to payment of the contract, Contractor shall notify the Purchasing Agent immediately, in writing, of such assignment of right to payment. In no case shall such assignment of contract relieve the Contractor from his or her obligations or change the terms of the contract.

36. FUNDING-A contract shall be deemed binding only to the extent of appropriations available to each Agency for the purchase of goods and services.

37. DELIVERY/SERVICE FAILURES-Failure of a Contractor to deliver goods or services within the time specified, or within reasonable time as interpreted by the Purchasing Agent, or failure to make replacements/corrections of rejected articles/services when so requested, immediately or as directed by the Purchasing Agent, shall constitute authority for the Purchasing Agent to purchase in the open market articles/services of comparable grade/quality to replace the services, articles rejected, and/or not delivered. On all such purchases, the Contractor shall reimburse the County, within a reasonable time specified by the Purchasing Agent, for any expense incurred in excess of contract prices. Such purchases shall be deducted from the contract quantities if applicable. Should public necessity demand it, the County reserves the right to use or consume articles delivered or services performed which are substandard in quality, subject to an adjustment in price to be determined by the Purchasing Agent.

38. NON-LIABILITY-The Contractor shall not be liable in damages for delay in shipment or failure to deliver when such delay or failure is the result of fire, flood, strike, the transportation carrier, act of God, act of Government, act of an alien enemy or by any other circumstances which, in the Purchasing Agent's opinion, are beyond the control of the Contractor. Under such circumstances, however, the Purchasing Agent may, at his or her discretion, cancel the contract.

39. NEW GOODS, FRESH STOCK-All Contractors, unless otherwise specifically stated, shall provide new commodities, fresh stock, latest model, design or pack.

40. NON-DISCRIMINATION-During the performance of this contract, the Contractor agrees as follows:

- a. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.
- b. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such Contractor is an equal opportunity employer.
- c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
- d. The Contractor will include the provisions of the foregoing paragraphs a, b, and c above in every subcontract or purchase order of over \$10,000 so that the provisions will be binding upon each subcontractor or vendor.
- e. Contractor and Subcontractor hereunder shall, throughout the term of this contract, comply with the Human Rights Ordinance, Chapter 11 of the Code of the County of Fairfax, Virginia, as reenacted or amended.

41. OFFICE OF SMALL BUSINESS-

- a. It is the policy of the County of Fairfax as declared by the Fairfax County Board of Supervisors' adoption of a Small and Minority Business Enterprise Program, April 6, 1981, that Fairfax County and its employees undertake every effort to increase opportunity for utilization of small or minority businesses in all aspects of procurement to the maximum extent

feasible.

- b. In connection with the performance of this contract, the Contractor agrees to use his or her best effort to carry out this policy and to insure that small and minority businesses shall have the maximum practicable opportunity to compete for subcontract work under this contract consistent with the efficient performance of this contract.
- c. As used in this contract the term "small business" means a corporation, partnership, or sole proprietorship, or other legal entity formed for the purpose of making a profit, which is independently owned and operated, has either fewer than 100 employees, or less than \$1,000,000 in annual receipts.
 - d. As used in this contract, the term "minority business" means a business enterprise that is at least 51 percent owned and controlled by a minority person or persons. Such persons include African Americans, Hispanic Americans, Asian Americans, American Indians, Eskimos and Aleuts; women regardless of race or ethnicity; and persons with a physical impairment that substantially limits one or more of the major life activities of such individuals, a record of such impairment, or who are regarded as having such an impairment.
 - e. Contractors may rely on oral or written representations by subcontractors regarding their status as small and/or minority business enterprises in lieu of independent investigation.
 - f. Where Federal grants or monies are involved it is the policy of Fairfax County, through its agents and employees, to comply with the requirements set forth in the U.S. Office of Management and Budget Circular No. A-102, uniform administrative requirements for Grants and Cooperative Agreements with State and Local Governments, as they pertain to small and minority business utilization.

42. GUARANTEES & WARRANTIES-All guarantees and warranties required shall be furnished by the Contractor and shall be delivered to the Purchasing Agent before final payment on the contract is made. Unless otherwise stated, manufacturer's standard warranty applies.

43. PRICE REDUCTION-If at any time after the date of the bid the Contractor makes a general price reduction in the comparable price of any material covered by the contract to customers generally, an equivalent price reduction based on similar quantities and/or considerations shall apply to this contract for the duration of the contract period (or until the price is further reduced). Such price reduction shall be effective at the same time and in the same manner as the reduction in the price to customers generally. For purpose of this provision, a "general price reduction" shall mean any horizontal reduction in the price of an article or service offered (1) to Contractor's customers generally, or (2) in the Contractor's price schedule for the class of customers, i.e., wholesalers, jobbers, retailers, etc., which was used as the basis for bidding on this solicitation. An occasional sale at a lower price, or sale of distressed merchandise at a lower price, would not be considered a "general price reduction" under this provision. The Contractor shall submit his or her invoice at such reduced prices indicating on the invoice that the reduction is pursuant to the "Price Reduction" provision of the contract documents. The Contractor in addition will within ten days of any general price reduction notify the Purchasing Agent of such reduction by letter. **FAILURE TO DO SO MAY REQUIRE TERMINATION OF THE CONTRACT.** Upon receipt of any such notice of a general price reduction, all ordering offices will be duly notified by the Purchasing Agent.

The Contractor, if requested, shall furnish, within ten days after the end of the contract period, a statement certifying either (1) that no general price reduction, as defined above, was made after the date of the bid, or (2) if any such general price reductions were made, that as provided above, they were reported to the Purchasing Agent within ten (10) days and ordering offices were billed at the reduced prices. Where one or more such general price reductions were made, the statement furnished by the Contractor shall include with respect to each price reduction (1) the date when notice of any such reduction was issued, (2) the effective date of the reduction, and (3) the date when the Purchasing Agent was notified of any such reduction.

44. CHANGES-Should it become proper or necessary in the execution of this contract to make any change in design, or to make any alterations which will increase the expense, the Purchasing Agent shall determine an equitable adjustment.

No payment shall be made to the Contractor for any extra material or services, or of any greater amount of money than stipulated to be paid in the contract, unless some changes in or additions to the contract requiring additional outlay by the Contractor shall first have been expressly authorized and ordered in writing by contract amendment or otherwise furnished by the Purchasing Agent.

45. PLACING OF ORDERS-Orders against contracts will be placed with the Contractor on a Purchase Order (or Procurement Card) executed and released by the Purchasing Agent or his or her designee. The Purchase Order must bear the appropriate contract number and date. Where Blanket Purchase Agreements (BPAs) have been executed and a Blanket Purchase Order has been released by the Purchasing Agent, telephonic orders may be placed directly with the Contractor by authorized personnel in the ordering Agency.

DELIVERY PROVISIONS

46. SHIPPING INSTRUCTIONS - CONSIGNMENT-Unless otherwise specified in the solicitation each case, crate, barrel, package, etc., delivered under the contract must be plainly stenciled or securely tagged, stating the Contractor's name, purchase order number, and delivery address as indicated in the order. Where shipping containers are to be used, each container must be marked with the purchase order number, name of the Contractor, the name of the item, the item number, and the quantity contained therein. Deliveries must be made within the hours of 8:00 AM - 3:00 PM. Deliveries at any other time will not be accepted unless specific arrangements have been previously made with the receiver at the delivery point. No deliveries will be accepted on Saturdays, Sundays and holidays, unless previous arrangements have been made. It shall be the responsibility of the Contractor to insure compliance with these instructions for items that are drop-shipped.

47. RESPONSIBILITY FOR SUPPLIES TENDERED-Unless otherwise specified in the solicitation, the Contractor shall be responsible for the materials or supplies covered by the contract until they are delivered at the designated point, but the Contractor shall bear all risk on rejected materials or supplies after notice of rejection. Rejected materials or supplies must be removed by and

at the expense of the Contractor promptly after notification of rejection, unless public health and safety require immediate destruction or other disposal of rejected delivery. If rejected materials are not removed by the Contractor within ten (10) days after date of notification, the County may return the rejected materials or supplies to the Contractor at his or her risk and expense or dispose of them as its own property.

48. INSPECTIONS-Inspection and acceptance of materials or supplies will be made after delivery at destinations herein specified unless otherwise stated. If inspection is made after delivery at destination herein specified, the County will bear the expense of inspection except for the value of samples used in case of rejection. Final inspection shall be conclusive except in regard to latent defects, fraud or such gross mistakes as to amount to fraud. Final inspection and acceptance or rejection of the materials or supplies will be made as promptly as practicable, but failure to inspect and accept or reject materials or supplies shall not impose liability on the County for such materials or supplies as are not in accordance with the specifications.

49. COMPLIANCE-Delivery must be made as ordered and in accordance with the solicitation or as directed by the Purchasing Agent when not in conflict with the bid. The decision of the Purchasing Agent as to reasonable compliance with delivery terms shall be final. Burden of proof of delay in receipt of goods by the purchaser shall rest with the Contractor. Any request for extension of time of delivery from that specified must be approved by the Purchasing Agent, such extension applying only to the particular item or shipment affected. Should the Contractor be delayed by the County, there shall be added to the time of completion a time equal to the period of such delay caused by the County. However, the contractor shall not be entitled to claim damages or extra compensation for such delay or suspension. These conditions may vary for construction contracts. See Special Provisions for the individual solicitation.

50. POINT OF DESTINATION-All materials shipped to the County must be shipped F.O.B. DESTINATION unless otherwise stated in the contract or purchase order. The materials must be delivered to the "Ship to" address indicated on the purchase order.

51. ADDITIONAL CHARGES-Unless bought F.O.B. "shipping point" and Contractor prepays transportation, no delivery charges shall be added to invoices except when express delivery is authorized and substituted on orders for the method specified in the contract. In such cases, difference between freight or mail and express charges may be added to invoice.

52. METHOD AND CONTAINERS-Unless otherwise specified, goods shall be delivered in commercial packages in standard commercial containers, so constructed as to ensure acceptance by common or other carrier for safe transportation to the point of delivery. Containers become the property of the County unless otherwise specified by bidder.

53. WEIGHT CHECKING-Deliveries shall be subject to re-weighing over official sealed scales designated by the County. Payments shall be made on the basis of net weight of materials delivered. Normal shrinkage may be allowed in such instances where shrinkage is possible. Net weights only, exclusive of containers or wrapping, shall be paid for by the County.

54. DEMURRAGE AND RE-SPOTTING-The County will be responsible for demurrage charges only when such charges accrue because of the County's negligence in unloading the materials. The County will pay railroad charges due to the re-spotting of cars, only when such re-spotting is ordered by the County.

55. REPLACEMENT-Materials or components that have been rejected by the Purchasing Agent, in accordance with the terms of a contract, shall be replaced by the Contractor at no cost to the County.

56. PACKING SLIPS OR DELIVERY TICKETS-All shipments shall be accompanied by Packing Slips or Delivery Tickets and shall contain the following information for each item delivered:

1. The Purchase Order Number,
2. The Name of the Article and Stock Number (Supplier's),
3. The Fairfax County Identification Number (FCIN), if specified in the order,
4. The Quantity Ordered,
5. The Quantity Shipped,
6. The Quantity Back Ordered,
7. The Name of the Contractor.

Contractors are cautioned that failure to comply with these conditions shall be considered sufficient reason for refusal to accept the goods.

BILLING

57. BILLING-Billing for the Fairfax County Public Schools and for County agencies: Unless otherwise specified on the contract or purchase order (PO), invoices are to be submitted, in DUPLICATE, for each purchase order immediately upon completion of the shipment or services. If shipment is made by freight or express, the original Bill of Lading, properly receipted, must be attached to the invoice. Invoices should be mailed to the "BILL TO" address on the PO or to the appropriate address specified in the contract.

PAYMENTS

58. PAYMENT-Payment shall be made after satisfactory performance of the contract, in accordance with all of the provisions thereof, and upon receipt of a properly completed invoice. Fairfax County reserves the right to withhold any or all payments or portions thereof for Contractor's failure to perform in accordance with the provision of the contract or any modifications thereto.

59. PARTIAL PAYMENTS-Unless otherwise specified, partial payments will be made upon acceptance of materials or services so invoiced if in accordance with completion date. However, up to 5 percent (5%) of the value of the entire order may be retained until completion of contract.

60. PAYMENT FOR EQUIPMENT, INSTALLATION, AND TESTING-When equipment requires installation (which shall also be

interpreted to mean erection and/or setting up or placing in position, service, or use) and test, and where such installation or testing is delayed, payment may be made on the basis of 50% of the contract price when such equipment is delivered on the site. A further allowance of 25% may be made when the equipment is installed and ready for test. The balance shall be paid after the equipment is tested and found to be satisfactory. If the equipment must be tested, but installation is not required to be made by the Contractor or if the equipment must be installed but testing is not required, payment may be made on the basis of 75% at the time of delivery and the balance shall be paid after satisfactory test or installation is completed.

GENERAL

61. GENERAL GUARANTY-Contractor agrees to:

- a. Save the County, its agents and employees harmless from liability of any nature or kind for the use of any copyrighted or uncopyrighted composition; secret process, patented or unpatented; invention; article or appliance furnished or used in the performance of a contract for which the Contractor is not the patentee, assignee, licensee or owner.
- b. Protect the County against latent defective material or workmanship and to repair or replace any damages or marring occasioned in transit or delivery.
- c. Furnish adequate protection against damage to all work and to repair damages of any kind to the building or equipment, to his or her own work or to the work of other contractors, for which his or her workers are responsible.
- d. Pay for all permits, licenses and fees and give all notices and comply with all laws, ordinances, rules and regulations of the County.
- e. Protect the County from loss or damage to County owned property while it is in the custody of the Contractor.

62. SERVICE CONTRACT GUARANTY-Contractor agrees to:

- a. Furnish services described in the solicitation and resultant contract at the times and places and in the manner and subject to conditions therein set forth provided that the County may reduce the said services at any time.
- b. Enter upon the performance of services with all due diligence and dispatch, assiduously press to its complete performance, and exercise therein the highest degree of skill and competence.
- c. All work and services rendered in strict conformance to all laws, statues, and ordinances and the applicable rules, regulations, methods and procedures of all government boards, bureaus, offices and other agents.
- d. Allow services to be inspected or reviewed by an employee of the County at any reasonable time and place selected by the County. Fairfax County shall be under no obligation to compensate Contractor for any services not rendered in strict conformity with the contract.
- e. Stipulate that the presence of a County Inspector shall not lessen the obligation of the Contractor for performance in accordance with the contract requirements, or be deemed a defense on the part of the Contractor for infraction thereof. The Inspector is not authorized to revoke, alter, enlarge, relax, or release any of the requirements of the contract documents. Any omission or failure on the part of the Inspector to disapprove or reject any work or material shall not be construed to be an acceptance of any such defective work or material. Notification of an omission or failure will be documented by the Purchasing Agent.

63. INDEMNIFICATION-Contractor shall indemnify, keep and save harmless the County, its agents, officials, employees and volunteers against claims of injuries, death, damage to property, patent claims, suits, liabilities, judgments, cost and expenses which may otherwise accrue against the County in consequence of the granting of a contract or which may otherwise result therefrom, if it shall be determined that the act was caused through negligence or error, or omission of the Contractor or his or her employees, or that of the subcontractor or his or her employees, if any; and the Contractor shall, at his or her own expense, appear, defend and pay all charges of attorneys and all costs and other expenses arising therefrom or incurred in connection therewith; and if any judgment shall be rendered against the County in any such action, the Contractor shall, at his or her own expense, satisfy and discharge the same. Contractor expressly understands and agrees that any performance bond or insurance protection required by this contract, or otherwise provided by the Contractor, shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County as herein provided.

64. OFFICIALS NOT TO BENEFIT-

- a. Each bidder or offeror shall certify, upon signing a bid or proposal, that to the best of his or her knowledge no Fairfax County official or employee having official responsibility for the procurement transaction, or member of his or her immediate family, has received or will receive any financial benefit of more than nominal or minimal value relating to the award of this contract. If such a benefit has been received or will be received, this fact shall be disclosed with the bid or proposal or as soon thereafter as it appears that such a benefit will be received. Failure to disclose the information prescribed above may result in suspension or debarment, or rescission of the contract made, or could affect payment pursuant to the terms of the contract.
- b. Whenever there is reason to believe that a financial benefit of the sort described in paragraph "a" has been or will be received in connection with a bid, proposal or contract, and that the contractor has failed to disclose such benefit or has inadequately disclosed it, the County Executive, as a prerequisite to payment pursuant to the contract, or at any other time, may require the Contractor to furnish, under oath, answers to any interrogatories related to such possible benefit.
- c. In the event the bidder or offeror has knowledge of benefits as outlined above, this information should be submitted with the

bid or proposal. If the above does not apply at time of award of contract and becomes known after inception of a contract, the bidder or offeror shall address the disclosure of such facts to the Fairfax County Purchasing Agent, 12000 Government Center Parkway, Suite 427, Fairfax, Virginia 22035-0013. Relevant Invitation/Request for Proposal Number (see cover sheet) should be referenced in the disclosure.

65. LICENSE REQUIREMENT-All firms doing business in Fairfax County, shall obtain a license as required by Chapter 4, Article 7, of The Code of the County of Fairfax, Virginia, as amended, entitled "Business, Professional and Occupational Licensing (BPOL) Tax." Questions concerning the BPOL Tax should be directed to the Department of Tax Administration, telephone (703) 222-8234 or visit: http://www.fairfaxcounty.gov/dta/business_tax.htm. The BPOL Tax number must be indicated in the space provided on the Cover Sheet, "Fairfax License Tax No." when appropriate.

66. REGISTERING OF CORPORATIONS-Any foreign corporation transacting business in Virginia shall secure a certificate of authority as required by Section 13.1-757 of the Code of Virginia, from the State Corporation Commission, Post Office Box 1197, Richmond, Virginia 23209. The Commission may be reached at (804) 371-9733. The consequences of failing to secure a certificate of authority are set forth in Virginia Code Section 13.1-758.

67. COVENANT AGAINST CONTINGENT FEES-The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For violation of this warranty, the County shall have the right to terminate or suspend this contract without liability to the County or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

68. VIRGINIA FREEDOM OF INFORMATION ACT-All proceedings, records, contracts and other public records relating to procurement transactions shall be open to the inspection of any citizen, or any interested person, firm or corporation, in accordance with the Virginia Freedom of Information Act except as provided below:

- a. Cost estimates relating to a proposed procurement transaction prepared by or for a public body shall not be open to public inspection.
- b. Any competitive sealed bidding bidder, upon request, shall be afforded the opportunity to inspect bid records within a reasonable time after the opening of all bids but prior to award, except in the event that the County decides not to accept any of the bids and to reopen the contract. Otherwise, bid records shall be open to public inspection only after award of the contract. Any competitive negotiation offeror, upon request, shall be afforded the opportunity to inspect proposal records within a reasonable time after the evaluation and negotiations of proposals are completed but prior to award except in the event that the County decides not to accept any of the proposals and to reopen the contract. Otherwise, proposal records shall be open to the public inspection only after award of the contract except as provided in paragraph "c" below. Any inspection of procurement transaction records under this section shall be subject to reasonable restrictions to ensure the security and integrity of the records.
- c. Trade secrets or proprietary information submitted by a bidder, offeror or contractor in connection with a procurement transaction or prequalification application submitted pursuant to the prequalification process identified in the Special Provisions, shall not be subject to the Virginia Freedom of Information Act; however, the bidder, offeror or contractor shall (i) invoke the protections of this section prior to or upon submission of the data or other materials, (ii) identify the data or other materials to be protected, and (iii) state the reasons why protection is necessary.
- d. Nothing contained in this section shall be construed to require the County, when procuring by "competitive negotiation" (Request for Proposal), to furnish a statement of the reasons why a particular proposal was not deemed to be the most advantageous to the County.

BIDDER/CONTRACTOR REMEDIES

69. INELIGIBILITY-

- a. Any person or firm suspended or debarred from participation in County procurement shall be notified in writing by the County Purchasing Agent.
 1. The Notice of Suspension shall state the reasons for the actions taken and such decision shall be final unless the person or firm appeals within thirty (30) days of receipt of the Notice by instituting legal action as provided in the Code of Virginia.
 2. The Notice of Debarment shall state the reasons for the actions taken and the decision shall be final unless the person or firm appeals within thirty (30) days of receipt of the notice by instituting legal action as provided in the Code of Virginia.
- b. The County Purchasing Agent shall have the authority to suspend or debar a person or firm from bidding on any contract for the causes stated below:
 1. Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;
 2. Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a County contractor;
 3. Conviction under the state or federal antitrust statutes arising out of the submission of bids or proposals;

4. Violation of contract provisions, as set forth below, of a character which is regarded by the County Purchasing Agent to be so serious as to justify suspension or debarment action:
 - (a) failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or
 - (b) a recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts; provided, that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for suspension or debarment;
 5. Any other cause the County Purchasing Agent determines to be so serious and compelling as to affect responsibility as a contractor, such as debarment by another governmental entity for any cause listed herein, or because of prior reprimands;
 6. The contractor has abandoned performance or been terminated for default on any other Fairfax County project;
 7. The contractor is in default on any surety bond or written guarantee on which Fairfax County is an obligee.
- c. If, upon appeal, it is determined that the action taken by the County Purchasing Agent was arbitrary or capricious, or not in accordance with the Constitution of Virginia, statutes or regulations, the sole relief available to the person or firm shall be restoration of eligibility. The person or firm may not institute legal action until all statutory requirements have been met.

70. APPEAL OF DENIAL OF WITHDRAWAL OF BID-

- a. A decision denying withdrawal of a bid submitted by a bidder or offeror shall be final and conclusive unless the bidder appeals the decision within ten (10) days after receipt of the decision by instituting legal action as provided in the Code of Virginia. The bidder or offeror may not institute legal action until all statutory requirements have been met.
- b. If no bid bond was posted, a bidder refused withdrawal of bid under the provisions of Article 2, Section 4 a.9, of the Fairfax County Purchasing Resolution, prior to appealing, shall deliver to the County a certified check or cash bond in the amount of the difference between the bid sought to be withdrawn and the next low bid. Such security shall be released only upon a final determination that the bidder was entitled to withdraw the bid.
- c. If, upon appeal, it is determined that the decision refusing withdrawal of the bid was arbitrary or capricious, the sole relief shall be withdrawal of the bid.

71. APPEAL OF DETERMINATION OF NONRESPONSIBILITY-

- a. Any bidder who, despite being the apparent low bidder, is determined not to be a responsible bidder for a particular County contract shall be notified in writing by the County Purchasing Agent. Such notice shall state the basis for the determination, which shall be final unless the bidder appeals the decision within ten (10) days of receipt of the notice by instituting legal action as provided in the Code of Virginia. The bidder may not institute legal action until all statutory requirements have been met.
- b. If, upon appeal, it is determined that the decision of the County Purchasing Agent was arbitrary or capricious and the award for the particular County contract in question has not been made, the sole relief available to the bidder shall be a finding that the bidder is a responsible bidder for the County contract in question. Where the award has been made and performance has begun, the County may declare the contract void upon a finding that this action is in the best interest of the public. Where a contract is declared void, the performing contractor shall be compensated for the cost of performance up to the time of such declaration. In no event shall the performing contractor be entitled to lost profits.

72. PROTEST OF AWARD OR DECISION TO AWARD-

- a. Any bidder or offeror may protest the award or decision to award a contract by submitting a protest in writing to the County Purchasing Agent, or an official designated by the County of Fairfax, no later than ten (10) days after the award or the announcement of the decision to award, whichever occurs first. Any potential bidder or offeror on a contract negotiated on a sole source or emergency basis who desires to protest the award or decision to award such contract shall submit such protest in the same manner no later than ten days after posting or publication of the notice of such contract as provided in Article 2, Section 2, of the Fairfax County Purchasing Resolution. However, if the protest of any actual or potential bidder or offeror depends in whole or in part upon information contained in public records pertaining to the procurement transaction which are subject to inspection under Article 2, Section 4e of the Fairfax County Purchasing Resolution, then the time within which the protest must be submitted shall expire ten days after those records are available for inspection by such bidder or offeror under Article 2, Section 4e, or at such later time as provided herein. No protest shall lie for a claim that the selected bidder or offeror is not a responsible bidder or offeror. The written protest shall include the basis for the protest and the relief sought. The County Purchasing Agent shall issue a decision in writing within ten (10) days of the receipt of the protest stating the reasons for the action taken. This decision shall be final unless the bidder or offeror appeals within ten (10) days of receipt of the written decision by instituting legal action as provided in the Code of Virginia.
- b. If prior to award it is determined that the decision to award is arbitrary or capricious, then the sole relief shall be a finding to that effect. The County Purchasing Agent shall cancel the proposed award or revise it to comply with the law. If, after an award, it is determined that an award of a contract was arbitrary or capricious, then the sole relief shall be as hereinafter provided. Where the award has been made but performance has not begun, the performance of the contract may be declared void by the County. Where the award has been made and performance has begun, the County Purchasing Agent may declare the contract void upon a finding that this action is in the best interest of the County. Where a contract is

declared void, the performing contractor shall be compensated for the cost of performance at the rate specified in the contract up to the time of such declaration. In no event shall the performing contractor be entitled to lost profits.

- c. Pending final determination of a protest or appeal, the validity of a contract awarded and accepted in good faith in accordance with this article shall not be affected by the fact that a protest or appeal has been filed.
- d. An award need not be delayed for the period allowed a bidder or offeror to protest, but in the event of a timely protest, no further action to award the contract will be taken unless there is a written determination that proceeding without delay is necessary to protect the public interest or unless the bid or offer would expire.

73. CONTRACTUAL DISPUTES-

- a. Any dispute concerning a question of fact as a result of a contract with the County which is not disposed of by agreement shall be decided by the County Purchasing Agent, who shall reduce his decision to writing and mail or otherwise forward a copy thereof to the contractor within thirty (30) days. The decision of the County Purchasing Agent shall be final and conclusive unless the contractor appeals within six (6) months of the date of the final written decision by instituting legal action as provided in the Code of Virginia. A contractor may not institute legal action, prior to receipt of the public body's decision on the claim, unless the public body fails to render such decision within the time specified.
- b. Contractual claims, whether for money or other relief, shall be submitted in writing no later than sixty days after final payment; however, written notice of the contractor's intention to file such claim shall have been given at the time of the occurrence or beginning of the work upon which the claim is based. Nothing herein shall preclude a contract from requiring submission of an invoice for final payment within a certain time after completion and acceptance of the work or acceptance of the goods. Pendency of claims shall not delay payment of amounts agreed due in the final payment.

74. LEGAL ACTION-No bidder, offeror, potential bidder or offeror, or contractor shall institute any legal action until all statutory requirements have been met.

75. COOPERATIVE PURCHASING-The County may participate in, sponsor, conduct or administer a cooperative procurement agreement on behalf of or in conjunction with one or more other public bodies, or public agencies or institutions or localities of the several states, of the United States or its territories, or the District of Columbia, for the purpose of combining requirements to increase efficiency or reduce administrative expenses in any acquisition of goods and services. Except for contracts for professional services, a public body may purchase from another public body's contract even if it did not participate in the request for proposal (RFP) or invitation for bid (IFB), if the RFP or IFB specified that the procurement was being conducted on behalf of other public bodies. Nothing herein shall prohibit the assessment or payment by direct or indirect means of any administrative fee that will allow for participation in any such arrangement.

76. PROFESSIONAL AFFILIATION-The Department of Purchasing & Supply Management holds membership in the National Institute of Governmental Purchasing, Inc., a non-profit, educational and technical organization that includes among its goals and objectives the study, discussion, and recommendation of improvements in governmental purchasing and the interchange of ideas and experiences on local state, and national governmental purchasing problems.

77. DRUG FREE WORKPLACE-During the performance of a contract, the contractor agrees to (i) provide a drug-free workplace for the contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor. For the purposes of this section, "drug-free workplace" means a site for the performance of work done in conjunction with a specific contract awarded to a contractor in accordance with this section, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

APPROVED:

/S/ David P. Bobzien
COUNTY ATTORNEY

/S/ Cathy A. Muse
COUNTY PURCHASING AGENT

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RFP CHECKLIST

NAME OF OFFEROR: _____

ADDRESS: _____

E-MAIL ADDRESS: _____

Name and addresses of both service and fiscal representatives (Key Personnel) who would handle this account.

Service Representative: _____

Telephone Number: () _____

E-Mail Address: _____

Fiscal Representative: _____

Telephone Number: () _____

E-Mail Address: _____

The following documents which are included in this Solicitation shall be incorporated by reference in the resulting contract and become a part of said contract:

- A. County of Fairfax Acceptance Agreement (Cover Sheet, DPSP32)
- B. Special Provisions & Specifications
- C. Appendix A (General Conditions and Instructions to Bidders)
- D. Appendix B (RFP Checklist, BPOL Form, Sample Jurisdiction listing, SBE Schedule, Subcontractor's Notification Form).

Typed Name and Title

Signature

Date of Submission

Sample Listing of Local Public Bodies

REFERENCE PARAGRAPH OF THE SPECIAL PROVISIONS, "USE OF CONTRACTS BY OTHER PUBLIC BODES." You may select those public bodies that this contract may be extended, a "blank" will signify a "NO" response:

	Alexandria Public Schools, VA		Manassas, Virginia
	Alexandria Sanitation Authority		Manassas City Public Schools, Virginia
	Alexandria, Virginia		Maryland-National Capital Park & Planning Commission
	Arlington County, Virginia		Metropolitan Washington Airports Authority
	Arlington Public Schools, Virginia		Metropolitan Washington Council of Governments
	Bowie, Maryland		Montgomery Community College
	Charles County, Maryland		Montgomery County, Maryland
	Charles County Public Schools, MD		Montgomery County Public Schools, MD
	Chevy Chase Village, MD		Northern Virginia Community College
	Clark County Administrative Services		Northern Virginia Regional Commission
	College Park, Maryland		Orange County Public Schools, Virginia
	Culpeper County, Virginia		Prince George's County, Maryland
	Culpeper County Public Schools		Prince George's County Public Schools, MD
	District of Columbia		Prince William County Public Schools, VA
	District of Columbia Courts		Prince William County, Virginia
	DC Water and Sewer Authority		Prince William County Service Authority
	District of Columbia Schools		Rappahannock County Public Schools, VA
	Fairfax County Water Authority		Rockville, Maryland
	Fairfax, Virginia (City)		Shenandoah County Public Schools, VA
	Falls Church City Public Schools		Spotsylvania County Schools, Virginia
	Falls Church, Virginia		Stafford County, Virginia
	Fauquier County, Virginia		Stafford County Public Schools, Virginia
	Fauquier County Schools, Virginia		Takoma Park, Maryland
	Frederick City, Maryland		Vienna, Virginia
	Frederick County Maryland		Upper Occoquan Sewage Authority
	Frederick County Schools, Maryland		Virginia Railway Express
	Gaithersburg, Maryland		Washington Suburban Sanitary Commission
	Greenbelt, Maryland		Washington Metropolitan Area Transit Authority
	Herndon, Virginia		Winchester Public Schools
	Leesburg, Virginia		Others
	Loudoun County Sanitation Authority		
	Loudoun County, Public Schools, VA		
	Loudoun County, Virginia		
	Madison County Public Schools, VA		
	Manassas Park Public Schools, VA		

YOU MUST RETURN THIS FORM WITH YOUR PROPOSAL PACKAGE – A NEGATIVE REPLY WILL NOT AFFECT CONSIDERATION OF YOUR OFFER. CONTRACT AWARD SHALL NOT BE MADE WITHOUT THIS FORM.

Vendor Name



**APPENDIX B:
BUSINESS CLASSIFICATION SCHEDULE**

DEFINITIONS

Small Business/Organization – is an independently owned and operated business which, together with affiliates, has 250 or fewer employees or average annual gross receipts of \$10 million or less averaged over the previous three years..

Minority Business – is a business concern that is at least **51%** owned by one or more minority individuals or in the case of a corporation, partnership or limited liability company, or other entity, at least **51%** of the equity ownership interest in the corporation, partnership or limited company or other entity is owned by one or more minority individuals and both the management and daily business operations are controlled by one or more minority individuals. Such individuals shall include Asian American, African American, Hispanic American, Native America, Eskimo or Aleut.

Woman-Owned Business – A business concern that is at least **51%** owned by one or more women who are U.S. citizens or legal resident aliens, or in the case of a corporation, partnership or limited company or other entity, at least **51%** of the equity ownership interest is owned by one or more women who are U.S. citizens or legal resident aliens, and both the management and daily business operations are controlled by one or more women who are U.S. citizens or legal resident aliens.

YOU MUST CLASSIFY YOUR BUSINESS/ORGANIZATION BY MARKING ONE (1) OF THE SIX (6) BOXES IN THE CHART BELOW. This designation is required of all business/organizations including publicly traded corporations, non-profits, sheltered work shops, government organizations, partnerships, sole proprietorships, etc.

Examples:

A small business, Asian woman owned, would mark box X on line 3.

A large business, African-American owned, would mark box V on line 3.

A small non-profit would mark box B on line 1.

A large business, publicly traded on NYSE or NASDAQ, would mark box Y on line 1.

<u>Line</u>	<u>SMALL BUSINESS</u>	<u>LARGE BUSINESS</u>	<u>OWNERSHIP</u>
1.	___ B	___ Y	Regardless of Ownership
2.	___ C	___ A	Women-Owned
3.	___ X	___ V	Minority-Owned

PLEASE RETURN THIS FORM WITH YOUR BID PACKAGE. CONTRACT AWARD MAY NOT BE MADE WITHOUT IT.

NAME OF FIRM: _____



**APPENDIX B:
 COUNTY OF FAIRFAX
 DEPARTMENT OF PURCHASING & SUPPLY MANAGEMENT
 SMALL AND MINORITY BUSINESS ENTERPRISE PROGRAM (SMBEP)
 12000 Government Center Parkway, Suite 427
 Fairfax, Virginia 22035-0013**

Fax: 703-324-3681

SUBCONTRACTOR (S) NOTIFICATION FORM

Contract Number/Title: _____

Prime Contractors Name: _____

Prime Contractor's Classification Code: _____ **(from SBE Schedule)**

In accordance with the Subcontracting paragraph of the Special Provisions for the above-cited contract, you are required to provide the County with names, addresses, anticipated dollar amount and small/minority classification (use code numbers from previous page) of each first-tier subcontractor. Please complete this form and return it to this office with your bid package.

Please check here if you are not using a subcontractor: _____

SUBCONTRACTOR(S) NAME	STREET ADDRESS	CITY	STATE	ZIP CODE	ANTICIPATED DOLLAR AMOUNT	SMALL OR MINORITY CLASS- IFICATION

YOU MUST RETURN THIS FORM WITH YOUR PROPOSAL PACKAGE. CONTRACT AWARD SHALL NOT BE MADE WITHOUT IT.

Appendix E
Mandatory Forms

VOLUME I: FINANCIAL

ON AN ANNUAL BASIS FROM CLOSING THROUGH THE 50-YEAR BUSINESS
ARRANGEMENT TERM

STATEMENT OF OPERATING REVENUES AND EXPENDITURES	
GENERAL DATA	
Total Amount of Space or Number of Units	
Rents Inflator	
Expenses Inflator	
RENTAL REVENUE (Provide Detailed Calculations)	
Gross Potential Rent – by type of space or unit	
Vacancy Allowance	
Total Rental Revenue	
PROPERTY OPERATING EXPENDITURES	
Administrative Expenditures (e.g. office supplies, bank charges, dues and subscriptions, admin forms, telephone and answering service, furniture, computer maintenance and supplies, travel and training, etc.) – Please identify expenses that the Project is expected to incur.	
Marketing Expenditures (e.g. public relations, advertising, signage, tenant relations, special promotions, recreation expense, etc.) – Please identify expenses that the Project is expected to incur.	

Professional Fees (in addition to providing amounts, please specify what portion of fees are incentive-based)	
Property Management Fees	
Legal Fees	
Accounting, Audit, and Tax Services	
Other Professional Fees	
Utilities	
Electricity (office and common)	
Water (landscape and common)	
Personnel Costs	
Salaries – Administrative (# of emp.)	
Salaries - Management (# of emp.)	
Salaries - Maintenance (# of emp.)	
Salaries – Groundskeepers (# of emp.)	
Commissions and Bonus	
Payroll Taxes	
Workers Compensation	
Health Insurance and Other Benefits	
Contract Services (for items not included above) (e.g. exterminating, trash removal, landscaping and grounds, contract repairs, common area cleaning, snow removal, other contracted services, etc.)	
Cleaning and Decorating (e.g. cleaning supplies, floor covering repairs, painting supplies, drapery and mini-blind repairs) – Please identify expenses that the Project is expected to incur.	
Repairs and Maintenance (exclusive of capital repairs and replacement; e.g. electrical supplies, plumbing supplies and fixtures, appliance parts and repairs, landscaping supplies, HVAC parts and supplies, other maintenance supplies, equipment and vehicle expense, roof and fence repairs, exterior and interior building repairs, street maintenance and repair, etc.) – Please identify expenses that the Project is expected to incur.	
Taxes and Insurance	
Real Property Taxes	
Personal Property Taxes	
Liability Insurance	
Property Insurance	

Workers Compensation Insurance	
Fire Insurance	
Insurance Claim Deductions	
Total Operating Expenditures	

EXCESS OF OPERATING REVENUES OVER EXPENDITURES	
Excess of Operating Revenues Over Expenditures Before Deposits into Replacement Reserve Account	
Deposits into Replacement Reserve Account	
Excess of Operating Revenues Over Expenditures (this is the numerator from which the debt service coverage ratio is calculated)	
DEBT SERVICE COVERAGE	
First Mortgage Debt Service	
Debt Service Coverage Ratio	
Total Debt Service (First and Second)	
Total Debt Service Coverage Ratio (First and Second)	
REMAINING BALANCE AFTER DEBT SERVICE AND THE ABOVE ITEMS	
Distributions to Designated Developer	
Provision for Income Taxes	
Cash balance, end of year	
ACCOUNT ACTIVITY	
Replacement Reserve Account	
Beginning Balance	
Interest Proceeds	
Deposits	
Withdrawals	
Ending Balance	
(items should be cross referenced to other line item entries in the mandatory forms, and in addition, Candidate Developers shall explain their activities regarding capital repair and replacement in the narrative of their proposal)	

**VOLUME I: FINANCIAL
DEVELOPMENT BUDGET FORMAT**

THE CANDIDATE DEVELOPER SHALL ACCURATELY SHOW THE DEVELOPMENT BUDGET ON AN ANNUAL BASIS FOR EACH PHASE OF CONSTRUCTION. IN ADDITION, THERE SHOULD BE A CONSOLIDATED DEVELOPMENT BUDGET.

	Total (\$000)	Dollars per Unit	Dollars per SF
Hard Costs (Identify phase, site, number of units, year executed, etc.)			
Infrastructure			
Construction			
Demolition			

Landscaping			
Contingency *			
Total			
TOTAL HARD COSTS			
Soft Cost (show in consolidated #'s here, but break out by year of incurrence in Statement of Operating Revenues and Expenditures Format)			
Construction Period Interest			
Architectural/Engineering Fees			
Legal and Accounting Fees			
Insurance			
Consultant Fees			
Development Fees			
Financing Transaction Fees			
Commissions			
Reserves			
Contingency*			
Credit Support			
Environmental Analysis			
Surveys, Permits, Inspections, Other			
TOTAL SOFT COSTS			
TOTAL PROJECT COSTS			

VOLUME I: FINANCIAL
STATEMENT OF DEVELOPMENT SOURCES AND USES OF FUNDS FORMAT (\$000s)

This form shall be submitted as part of the Candidate Developer's Proposal

SOURCES:	
Excess of Revenues over Expenditures During the Construction Period	
Equity Contributions	
Deferred Development Fees	
Senior Loan Proceeds	
Construction Loan Proceeds	
Interest Earnings on Construction Escrow Account	
TOTAL SOURCES	
USES: <i>Note - Proposal Costs are not a Permitted Use.</i>	
Predevelopment Costs	
Land Acquisition Costs	
Land Development Costs	
Demolition Costs	
Hard Construction Costs	
Soft Construction Costs	
Prepaid Insurance	
Payment and Performance Bonds	
Debt Service Reserve	
Construction Loan Repayment	
Senior Loan Debt Service	
Construction Period Points and Interest	
Interest Rate Protection	
Credit Support	
Other Financing Costs (please specify)	
TOTAL USES	
TOTAL SOURCES IN EXCESS OF USES	
RECONCILIATION TO PROJECT COSTS	
Total Project Costs (From Page _)	
Debt Service	
Other Uses (Identify)	
Total Uses	

VOLUME I: PROPERTY MANAGEMENT

Building Component	Component Life	Unit of Measure	Unit Cost (Current Year \$)
Carpeting		SY	
Floor Covering		SF	
Roofing		SQ	
HVAC System		Each	
Water Heater		Each	
Appliances (specifically list all appliances)		Each	
Exterior Painting		CSF	
Utility and Structural Systems		Each	
Landscaping		LS	
Recreational Areas		LS	
Other (Please list)			

Appendix F Past Performance Questionnaire

Note: Past performance information is required for each team member and each major subcontractor. The Candidate Developer shall ensure that a Past Performance Questionnaire is completed for each project used to demonstrate experience in Volume III. Relevant past performance information is defined as work of a similar nature to the factors/subfactors shown in Volume I of the Solicitation and accomplished during the past 10 years. Questionnaires are to be completed by the entity chiefly responsible for the particular projects and furnished directly to Fairfax County Government:

MARK FOR: **Laurel Hill RFP**
County of Fairfax, Virginia
Past Performance Information

INSTRUCTIONS FOR COMPLETING PAST PERFORMANCE QUESTIONNAIRE

- A. Please complete the attached questionnaire using the following guidance. Handwritten responses are sufficient.
- B. Questions 1 through 9 should be completed by the Candidate Developer.
- C. Indicate, based on the adjectives (use letter designation below), the Candidate Developer’s performance on the identified program. The following is a definition of the rating levels:

E (Exceptional)	Performance meets requirements and exceeds many requirements. The performance being assessed was accomplished with few minor problems for which corrective actions taken by the Candidate Developer were highly effective.
V (Very Good)	Performance meets requirements and exceeds some requirements. The performance being assessed was accomplished with some minor problems for which corrective actions taken by the Candidate Developer were effective.
S (Satisfactory)	Performance meets requirements. The performance being assessed contains some minor problems for which corrective actions taken by the Candidate Developer were, or appear to be, satisfactory.
M (Marginal)	Performance does not meet some requirements. The performance being assessed reflects a serious problem for which the Candidate Developer has not yet identified corrective actions or the Candidate Developer’s proposed actions appear only marginally effective or were not fully implemented.
U (Unsatisfactory)	Performance does not meet most requirements and recovery is not likely in a timely manner. The performance being assessed contains serious problem(s) for which the Candidate Developer’s corrective actions were, or appear to be, ineffective.
N/A (Not Applicable)	Self-explanatory.

- D. Please mark the box under the letter corresponding to your rating, or mark “**N/A**” if you are unable to provide a rating for an area.
- E. Please provide narrative explanations for your answers. Space for your narrative remarks is provided after each area. If more space is required, attach additional sheets.
- F. In addition to completing the attached questionnaire for the identified project, please provide your comments on other projects for which you have contracted with this firm. You are urged to supplement your own knowledge of the Candidate Developer’s performance with the judgment of others in your organization.

PAST PERFORMANCE EVALUATION

I. PROJECT INFORMATION

1. Project title (for similar projects of \$20M or more that have been completed within the last ten years): _____

2. Location of each project (street address/city/state/zip code):

3. Description of the project effort (please include magnitude and level of complexity as compared to our project requirements): _____

4. Amount of space/Number of units: _____
5. Period of performance: _____
 - a. Original schedule: _____
 - b. Current or actual schedule: _____
 - c. Number of times it was changed: _____
 - d. Primary causes of changes: _____
6. Project dollar value at time of selection/closing: _____
 - a. Original project dollar value: _____
 - b. Current or actual value at time of completion: _____
 - c. Number of times it was changed: _____
 - d. Primary causes of changes: _____
7. **Current or actual project value including all changes and exercised options:** _____

8. Current or actual completion date, and if not complete, percentage of completion: _____
9. Specific role of the Candidate Developer and the person(s) and organization(s) identified as participants in the project (please provide name, title, affiliation, business address, and telephone and fax number for each of the team members): _____

II. PAST PERFORMANCE

Rating Scale: E = Exceptional
M = Marginal

V = Very Good
U = Unsatisfactory

S = Satisfactory
N/A = Not Applicable

QUALITY: Rate how the project(s) that the Candidate Developer developed for the user identified

1. All maintenance services required for the project.
2. Overall quality of the project.
3. Key management/design/maintenance personnel qualifications to perform the requirements of the project.
4. Quality of the subcontractor's work.
5. Accuracy of the record keeping procedure and the ability to prepare accurate reports.
6. All training processes required for maintenance personnel.
7. Procedures that ensured that the level of quality remains constant throughout the life of the project.

E	V	S	M	U	N/A

Comments: _____

TIMELINESS: Rate how well the project met the following

8. Timeliness in completing the project.
9. Meeting program schedule and monitoring critical milestones.
10. Timeliness in completing reports.
11. Providing a process for timely responses to requests for modifications.

E	V	S	M	U	N/A

Comments: _____

COST CONTROL: Rate how well the cost control program

12. Provided a process for management of the program costs.
13. Provided good products/materials, considering the price paid for the items.
14. Demonstrated financial stability during the project performance period.
15. Demonstrated effectiveness in reducing project costs.
16. Demonstrated reasonableness of proposed modifications costs.

E	V	S	M	U	N/A

Comments: _____

BUSINESS RELATIONSHIPS: Rate how well the project process indicated that, between the Candidate Developer's team members and subcontractors, there was

- 17. Cooperation in solving problems.
- 18. A good relationship with technical personnel.
- 19. A good relationship with contracting office personnel.
- 20. A good relationship with subcontractors.
- 21. Cooperation and innovation in problem solving.
- 22. Compliance with the terms of the contract.

E	V	S	M	U	N/A

Comments: _____

CUSTOMER SATISFACTION: Rate how well the Candidate Developer ensured that

- 23. You, as the end user, were satisfied with the services performed.
- 24. You would be their advocate for future work.

E	V	S	M	U	N/A

Comments: _____

MANAGEMENT: Rate how well the Candidate Developer provided

- 25. An adequate and complete management plan.
- 26. A specific management team dedicated to this project.
- 27. Indications that the provided team had experience in subcontractor management and surveillance.
- 28. A process, or metrics, for the evaluation of their own overall management performance.

E	V	S	M	U	N/A

Comments: _____

TECHNICAL: Rate to what extent the Candidate Developer

- 29. Met the general and detailed design specifications requirements.
- 30. Ensured the technical data and details submitted were acceptable.
- 31. Ensured the project met the proposed performance of the demolition plan.
- 32. Ensured the project met the proposed performance of the construction efforts.
- 33. Ensured the project met the proposed performance of the hazardous waste management plan.

E	V	S	M	U	N/A

Comments: _____

COMMUNITY MASTER DEVELOPMENT PLAN: Rate

- 34. The maintainability of the facility.
- 35. Your satisfaction with the corrective actions taken to problems you identified.

E	V	S	M	U	N/A

Comments: _____

PROPERTY MANAGEMENT: Rate

- 36. How well the property management plan met required objectives.
- 37. The reliability of the customer service provided.
- 38. The timeliness/courtesy of responses to customer complaints.
- 39. The timeliness and quality of the change of occupancy maintenance program.
- 40. The overall customer satisfaction with the Candidate Developer.

E	V	S	M	U	N/A

Comments: _____

FACILITY DESIGN AND CONSTRUCTION: Rate

- 41. The reliability of the design.
- 42. Your satisfaction with the response to warranty calls.
- 43. The corrective actions taken to warranty calls.

E	V	S	M	U	N/A

Comments: _____

III. PROJECT FINANCIAL INFORMATION

Please respond "YES," "NO," or "N/A," as appropriate, for each of the following questions.

FINANCIAL STRATEGY

- 1. Was the financial plan adhered to?
[if "no," please reference and explain in the additional remarks section at the end of this questionnaire.]
- 2. Were any changes made to the financial strategy or plan?
[if "yes," please reference and describe the change/effect in the additional remarks section at the end of this questionnaire.]
- 3. Were there any cost overruns involved with this project?
[if "yes," please reference and explain in the additional remarks section at the end of this questionnaire.]
- 4. Were there any strengths and/or weaknesses with the candidate developer's financial strategy?
[please describe them and explain in the additional remarks section at the end of this questionnaire.]

YES	NO	N/A

PRO FORMA FINANCIAL INFORMATION

- 5. Were the underlying assumptions sound?
[If "No," please reference and explain in the Additional Remarks section at the end of this questionnaire.]
- 6. Were the pro forma financial objectives met?
[If "No," please reference and explain in the Additional Remarks section at the end of this questionnaire.]

YES	NO	N/A

CUSTOMER PARTICIPATION IN PROJECT FINANCING

- 7. Did customers participate in project financing?
[If "Yes," describe for construction and permanent loan, bond, and mortgage] _____
- 8. Was the financial requirement obtained in a timely manner?
[If "No," please reference and explain in the Additional Remarks section at the end of this questionnaire.]

YES	NO	N/A

ACCOUNT MANAGEMENT

- 9. Were there any instances where subcontractors were not paid?
[If "Yes," please reference and explain in the Additional Remarks section at the end of this questionnaire.]
- 10. Were any liens placed against the project?
[If "Yes," please reference and explain in the Additional Remarks section at the end of this questionnaire.]

YES	NO	N/A

GENERAL INFORMATION

11. To your knowledge, has this Candidate Developer filed for bankruptcy in the past ten years?
 [If "Yes," please reference and indicate date, type of bankruptcy, and disposition of case in the Additional Remarks section at the end of this questionnaire.]
12. To your knowledge, have any key personnel associated with this Candidate Developer been indicted on any criminal charges within the past ten years?
 [If "Yes," please reference, indicate date, type of charges, and disposition of case in the Additional Remarks section at the end of this questionnaire.]
13. To your knowledge, has this Candidate Developer's line of credit been increased/decreased by 25 percent or more during the past ten years?
 [If "Yes," please reference and, if known, indicate date and reason for change in the Additional Remarks section at the end of this questionnaire.]
14. Has this Candidate Developer demonstrated capability to work independently and without significant customer oversight?
 [If "No," please reference and explain in the Additional Remarks section at the end of this questionnaire.]
15. Given a choice, would you use this Candidate Developer again?
 [If "No," please reference and explain in the Additional Remarks section at the end of this questionnaire.]

YES	NO	N/A

IV. RESPONDENT INFORMATION

The following information will assist with the analysis of the data. This information will be kept CONFIDENTIAL.

Name (please print): _____

Signature: _____

Company: _____

Address: _____

Work phone number (including area code): _____

FAX number (including area code): _____

Your role relative to the project/contract: _____

Length of involvement in project: _____

Date the questionnaire was completed: _____

Do you know anyone else who can provide information regarding this Candidate Developer's performance?

Name: _____ Phone/Fax: _____

Name: _____ Phone/Fax: _____

Name: _____ Phone/Fax: _____

THANK YOU FOR YOUR ASSISTANCE IN COMPLETING THIS QUESTIONNAIRE.

ADDITIONAL REMARKS (Use additional pages if necessary):

APPENDIX G

RELEVANT INFORMATION, RESOURCES and INFORMATION LINKS

Other materials relevant to this RFP and the Laurel Hill Community Planning Sector are available, some at cost, to interested potential development entities which may not be familiar with Fairfax County and with the development potential and requirements applicable to the proposed redevelopment project. Supplementary information, which may be of use to such prospective respondents in preparing well-conceived and responsive development proposals, includes all or portions of the following items which may be obtained with the assistance of the County's contact.

1. Fairfax County Zoning Ordinance
2. Fairfax County Public Facilities Manual
3. Fairfax County Profile, 2000
4. Area IV/Comprehensive Plan for Fairfax County, Virginia
5. *FY 2003 –2007 Capital Improvement Program (with Future Years to 2012)*
6. Site Purchase Agreement between the County and the Federal Government for the Laurel Hill site
7. Approved Sanitary Sewer Area
8. Area maps and aerial photographs

Key links and sources of information pertaining to Laurel Hill and Fairfax County:

Fairfax County Government homepage:

www.fairfaxcounty.gov/index.htm

Mt. Vernon District, Fairfax County, homepage:

www.fairfaxcounty.gov/mountvernon/

Fairfax County Department of Planning and Zoning
Homepage:

www.fairfaxcounty.gov/dpz/

Laurel Hill Homepage:

www.fairfaxcounty.gov/dpz/laurelhill/

Proposed Plan Amendments to the Comprehensive Plan:

www.fairfaxcounty.gov/dpz/comprehensiveplan/planamendments.htm

Laurel Hill Task Force Recommendations:

www.fairfaxcounty.gov/dpz/laurelhill/recommendations.htm

The Laurel Hill Project Advisory Citizens Oversight Committee

www.fairfaxcounty.gov/dpz/laurelhill/projectadvisory.htm

National Register Nomination

www.fairfaxcounty.gov/dpz/laurelhill/natlregister.htm

Fairfax County Park Authority, Laurel Hill:

www.fairfaxcounty.gov/parks/laurelhill/LHcdpsummary.htm

Lorton Arts Foundation:

www.lortonarts.org/